



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.

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#NIRS

REDRESS IS NOT AN INSURANCE CLAIM

CLAN's submission to the Independent Review
of the National Redress Scheme.

Submitted 30th September 2020

CLAN - Care Leavers Australasia Network is a national, independent, peak membership body which represents and advocates for those who were raised in Australia and New Zealand's Orphanages, Children's Homes, Missions and Foster Care. There were more than 500 000 children in Australia who grew up in 900 plus Orphanages, Children's Home, 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, counselling, casework, records searching and publishing Care Leavers' stories.

CLAN would like to point out that we have already made a submission to the Joint Select Committee earlier this year which we hope you will also review. All the issues discussed in that previous submission are still relevant for Care Leavers at this point in time. There has been very little change in the procedures and outcomes of the National Redress Scheme to date, resulting in CLAN and Care Leavers believing that our experiences and point of view have NOT been heard or taken under advisement.

CLAN would also like to preface this submission and give acknowledgement to the Redress team headed by Tammy and Mel who have been liaising with CLAN this year. It is clear that these two women are committed and caring public servants who are trying to improve the experience and outcomes for the Care Leavers whom CLAN assist with redress applications. We are in contact with these ladies daily and things have definitely improved since their introduction to CLAN, however they are working within an extremely flawed system and things are still far from perfect.

We thank you for giving CLAN the opportunity to share our experiences regarding the National Redress Scheme with you. However, we hope that at this stage our submission and those of others are not futile and will actually be utilised to make some positive changes for those Care Leavers who are being retraumatised by the National Redress Scheme. CLAN feels that the dismal failure of this scheme is continuing and the reviews and inquiries carried out to date have not been taken on board by those administering the scheme. We sincerely hope that this **independent** review will be different and the unnecessary re-traumatisation of Care Leavers will cease. At this point in time the National Redress Scheme is doing more harm than good to already vulnerable and hurt Australian citizens, this is contrary to the purpose of a redress scheme and needs to be rectified immediately.

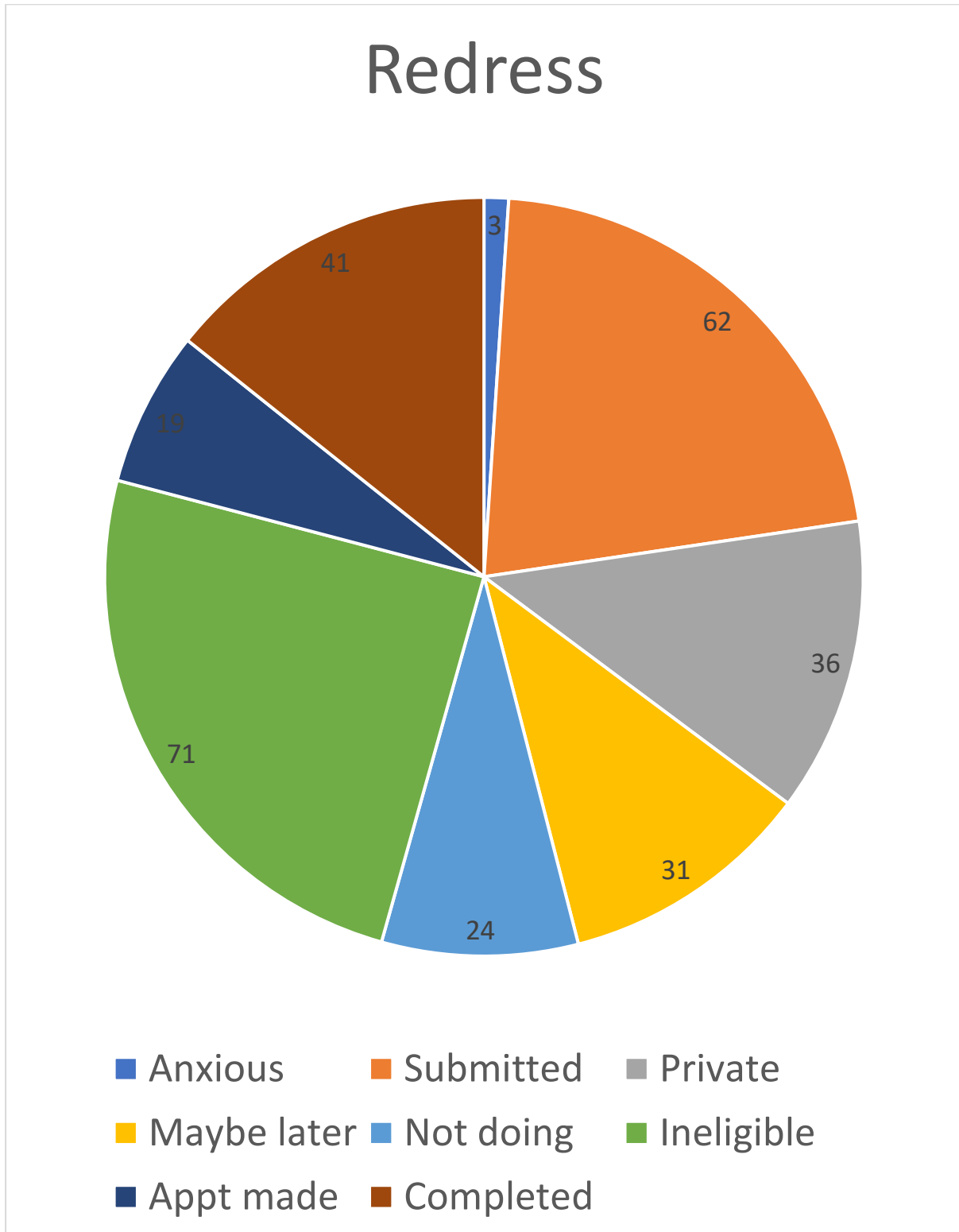
Why are Care Leavers hesitant to apply for redress?

CLAN are discovering that more and more Care Leavers who are eligible to apply to the National Redress Scheme are hesitant to do so and as such are avoiding applying at the present time. These are Care Leavers who financially could use redress money for basic needs like food, rent and clothing. One of their biggest expenses is also their medical and health needs and eventually finances to cover the costs of their funeral.

So what is it that is proving to be such a deterrent for Care Leavers? Since the Covid-19 pandemic began, CLAN have been calling all our members to see what we can help with. When the discussion comes up about Redress we have found many have not yet applied and are not taking steps to apply at this point in time or until we spoke with them.

Out of 287 calls made in May to CLAN members, 39% of Care Leavers were eligible for redress but hadn't applied. 22% of Care Leavers had already applied and were waiting for an outcome, 25% were not eligible to apply and 14% had completed the redress process. When asked why they

haven't yet made an application to redress 32% said it was for private reasons, 27% said they would do it at a later date, and 21% had decided they were not going to go through with a redress application. Please see pie chart below, data taken from phone calls made in May.



Care Leavers have discussed with us that all the adversity they hear surrounding the National Redress Scheme plays a large role in them avoiding the application process. They hear from other Care Leavers about their horrible, retraumatising experiences, they see it on social media and also in mainstream media.

Many Care Leavers are also telling us that they don't see the point in going through the trauma of the Redress Scheme when the maximum is only \$150 000 and even some of the worst cases are only getting \$100 000. Care Leavers are finding the redress process more traumatising and creating more mental health issues than going through the Royal Commission. When other Care Leavers hear about this it is no wonder they are avoiding applying to the NRS. The difficulties and adversity surrounding the National Redress Scheme now precedes it and unfortunately is serving to deter those for whom this scheme was established from even making an application.

More recently Care Leavers have spoken about their reluctance to share the Part 3 information with the abusive institution in order to get a 'more personalised' DPR. Why should this need to occur to get a personal DPR to begin with? Surely those apologising on behalf of the institution have some understanding of the pain, suffering and effects sexual abuse has on a person? Why must a Care Leaver be forced to share this personal and private information with the institution who was responsible for their abuse in order to get more than a general apology? If this is the type of scheme that is operating no wonder Care Leavers are hesitant to apply.

In March this year CLAN also produced and mailed out, a comprehensive survey regarding Care Leaver experiences with the redress process. CLAN is still in the process of receiving surveys but from an interim analysis of 122 survey responses CLAN has found 37% of respondents who claim to be eligible to apply for redress have not yet applied. When asked to elaborate on why they hadn't yet made an application, responses generally revolved around the following factors:

- **Fear of being retraumatised/having to disclose abuse again.**
- **Lack of understanding regarding how to apply/the application process**
- **Confusion about eligibility especially concerning prior payments and the indexing clause.**
- **Illness**
- **Low payments**
- **Extensive Delays**
- **Sharing of Part C information with abusive organisations and insurance companies**

CLAN will ensure that the Minister Anne Ruston, Opposition Minister Linda Burney, DSS, the Joint Select Committee on the implementation of the National Redress Scheme as well as your Independent Review will be provided a copy of the final survey report.

It can be seen that there is a large number of Care Leavers who are avoiding applying to the National Redress Scheme for a multitude of reasons, but the majority of these reasons revolve around the ineptitude of the scheme. It is disgraceful that a Redress Scheme, set up to remedy a situation, has been designed and administered so poorly that 37% of those who are eligible have decided it is too difficult to apply. This needs to be addressed immediately!

Exclusions

CLAN maintains that the exclusion of those who were not sexually abused, and those who are currently in gaol or have been for an extended period is unjust. Please see our previous submission to the Joint Select Committee for further discussion.

CLAN would also like to reiterate that no change in policy has yet come about with regard to Care Leavers who were over the age of 18 at the time of their sexual abuse, but who were still state wards until the age of 21 and were still residing in Orphanages and Children's Homes. The National Redress Scheme (NRS) is using today's standards to make policy for different generations when children were considered state wards until the age of 21. Just as a 16 year old had no say in their care or what happened to them, neither did a 20 year old who was still in care. The policies of the time believed that children were just that until the age of 21, and therefore this ignored group need to be acknowledged in the NRS.

A new point that CLAN would like to highlight is the exclusion of those who fall under the terms of reference of the National Redress Scheme but are then deemed ineligible. As of late, CLAN are beginning to see more and more Care Leavers applications being denied and deemed ineligible for various reasons. CLAN was under the impression that those who were sexually abused whilst in 'care' are eligible for the National Redress Scheme. **One Care Leaver (who cannot read or write) was recently rejected from Redress even after suffering horrific abuse and now calls herself the 'Invisible Tasmanian'.** Those assessing applications are adhering to different understandings and definitions - none of which is transparent or shared with support services like CLAN. It is abundantly clear that Independent Decision Makers have had NO Care Leaver Training.

For example, CLAN assisted a Care Leaver who was in foster care and sexually abused by her foster parents. She fit the eligibility criteria. However, because no records of her time in care could be found she was deemed ineligible. Anyone who has familiarity with Care Leaver issues or has read the literature stemming from the Royal Commission would understand the difficulties in obtaining records and that many records were destroyed. However, it seems as though Redress is treating applications as an **insurance claim** rather than with the survivor focused lens we were assured it would have. Care Leavers are the State Governments responsibility and instead, like in this case are penalised because organisations have lost or destroyed records.

We have also seen the NRS exclude Care Leavers who were sexually abused outside an institution or foster placement due to absconding. Even if they were still state wards and under the state's care, the NRS has been excluding this sexual abuse. **This policy was initiated in 2018 after a Care Leaver's application was excluded because she was gang raped after absconding due to the abuse she was suffering in the Children's Home. At the time she applied there was no policy covering this circumstance and this elderly Care Leaver ill with Parkinson's disease was forced to wait indefinitely until DSS created a policy for this circumstance.**

There have been many examples of Care Leavers in similar situations, as it was quite common for children to abscond due to the crimes committed against them. Therefore if these crimes weren't committed against children in care, they most likely would not have had any reason to abscond. **We have found out recently though that some IDM's may be more lenient in these circumstances, and if there was sufficient reason to abscond, the abuse which happened after they absconded is being deemed eligible. Whilst we agree that this should be happening (if not a blanket rule that ALL Care Leavers who were abused while in care outside the institution are deemed eligible) it highlights the absolute inconsistency and unfairness of the scheme. Our elderly Care Leaver suffering with**

Parkinson's had her abuse bluntly ignored due to this policy, whilst now some IDM's have changed their mind and others are being allowed.

It appears that the National Redress Scheme and the IDM's working within it are creating policy on the run. The rules are constantly being changed and readjusted. It is hard to not be cynical in questioning why this constant change? Independent Decision Makers are not Care Leaver trained and perhaps if they were, we would see greater understanding of Care Leaver circumstances and increased consistency with decision making. Nevertheless, it seems we are faced with a scheme who do not follow their own rules, make decisions on a whim and have no thought or care to the traumatised Care Leavers they are hurting and retraumatising along the way. This brings us to our next discussion point of the inconsistencies in the National Redress Scheme.

Application Form

As time has gone on within the NRS, CLAN has found that more and more Care Leavers are having difficulties with the application form. The form is too long and does not make clear the type of information that is actually required that will impact the offer the Care Leaver is given.

It does ask applicants to describe the type and extent of the abuse but does not say that the Care Leaver needs to detail and distinguish between molestation, penetration, and what type of penetration. Care Leavers use the word 'rape' thinking it accurately describes what happened to them but in actual fact does not provide the detailed information that the NRS is looking for.

Furthermore, whilst it says you should include other types of related non-sexual abuse, it does not actually point out that the extent to which this is discussed and made relevant will impact a Care Leavers payment. It must be remembered that Care Leavers were abused every day in a multitude of ways and for some to accurately disclose 'related' abuse would take forever and a day. Many Care Leavers take for granted that IDM's understand that physical and psychological abuse is part of the Care Leaver experience as well as sexual abuse. Perhaps if IDM's were properly Care Leaver trained and had read literature like *Orphans of the Living by Joanna Penglase*, they would understand this, but nevertheless the application form fails to explain the importance and the impact on payments that discussing other abuse has.

These issues severely penalise all those care Leavers who attempt to do their own redress application. Care Leavers are going in blind, the information is just not clear enough for those attempting it by themselves, and no information is given regarding the assessment matrix which would enable Care Leavers to provide the level of detail required. CLAN are increasingly disturbed at the amount of Care Leavers who are doing their own application, and upon receiving their application at the NRS they are still not referred to CLAN- a specialised Care Leaver service. CLAN heard from a 71 year old Care Leaver who eventually found CLAN herself after applying to the NRS on her own. She disclosed to us that the process of doing the application on her own and dealing with the NRS by herself has made her suicidal. CLAN are now giving her the much-needed support she required but questions why she was not referred to us sooner by the NRS?

On the topic of providing specialised Care Leaver support, we have recently had another Care Leaver come to us because a redress support service (who does not specialise in Care Leavers) failed to fill out the details of her institution and abusers (foster parents names and address). This is vital information in the redress process and if it had been completed by CLAN who understand the intricacies of 'care' details this would not have been missed.

Additionally, we have found other areas of the form lacking in clear wording. We urge those administering the NRS to understand that Care Leavers experience is very different to those who were brought up with their own family in their own homes and wording on the form which may seem simple to the average Australian can actually mean something entirely different to a Care Leaver. For example, on the very first page where it requests the applicants name it asks for a first name and then has two separate rows for 'Other given name'. It does not use the words middle name or similar. **In one case a Care Leaver placed previous names in this section including her perpetrators surname (which was her given name at a point in time). This resulted in her redress offer being mailed out in an incorrect name with the perpetrators name being listed also. The redress offer was actually sent out in 5 different names, however the express envelope it was posted in was curiously addressed correctly with the Care Leavers 2 legal names. Understandably, this was incredibly confronting and retraumatising for this Care Leaver seeing the paedophiles name on her outcome letter and who thought she was doing the right thing in putting all her previous 'other given names' into the form. It must also be noted that this then delayed her redress payment even more.** CLAN must also question why this was not double checked (as many things seem to be) via telephone before posting by the NRS who had her form since 2019. For those raised in a family home this question would be straightforward, but we have raised the issue on many occasions that Care Leavers experiences are different and need to be understood in a different way. This in turn affects a Care Leavers understanding of the questions on the form in a different way. **We once again urge ALL THOSE ADMINISTERING AND WORKING WITHIN THE SCHEME TO BECOME CARE LEAVER INFORMED AND TRAINED.**

Inconsistency

As mentioned above, the inconsistency that has been witnessed in our work with Care Leavers accessing the National Redress Scheme is horrendous. The bottom line is that any sort of inconsistency produces an unfair and unjust outcome for all those accessing the scheme.

CLAN firmly believe that the inconsistency in outcomes is worsened by the system of having individual IDM's assess an application. Having one person look at an application means that it is up to only one person's subjective viewpoint and interpretation of policy. As witnessed above, a policy was decided in regards to sexual abuse occurring outside an institution when a child had absconded, however individual IDM's may be ignoring or interpreting this policy in a completely different way allowing for huge inconsistencies – some are deemed ineligible others may be awarded \$150 000. That is a considerable difference in outcome due to one person's viewpoint.

CLAN was assisting another Care Leaver who was a victim of 'state sanctioned rape'. Many female Care Leavers were routinely subjected to internal examinations, carried out in a less than professional manner, on many occasions for the sexual gratification of the doctor employed by the state. This has been a contentious issue thus far in the National Redress Scheme and has been a prime example of the inconsistencies we speak of. **CLAN have seen in one case an IDM ask for more information regarding what made the Care Leaver believe the internal examination was indeed sexual abuse. CLAN obtained this information and progressed the Care Leavers application and the Care Leaver was awarded \$100 000. In another case a Care Leaver applied on the basis of her 3 internal examinations being sexual abuse. The IDM made a decision without requesting further information and deemed this Care Leaver to be ineligible and that her internal examinations did not constitute sexual abuse. When this Care Leaver received the outcome letter saying she was receiving nothing and her abuse was not deemed abuse, she was suicidal. This Care Leaver then**

applied for a review and was awarded a redress payment of six figures that she did not disclose. This is a huge difference in outcome between two different IDM's. Whilst the correct outcome was achieved in the end, the initial response was completely unacceptable and if CLAN had not been there to support and inform this Care Leaver she may not have progressed to a review.

Since these outcomes of state sanctioned rape cases, CLAN has been forced to call our nominees with similar cases, these are elderly Care Leavers, and ask them to explain how do they know it was sexual abuse and not just a 'normal' internal examination. **An 83 year old Care Leaver told us that 'Dr Fingers with his face hidden by a mask. He'd examine you sexually while laughing. He said, "you like that" but I would be screaming'.** This is common place of the responses we get and yet **CLAN have been put in the regrettable position of inquiring into some of the most personal and traumatising memories these Care Leavers have and in doing so violating them all over again in order to achieve the best redress payment we can for them. THIS IS WRONG AND IT SHOULD NOT BE HAPPENING.**

NSW CHILD WELFARE DOCTOR

**DR FINGERS WITH HIS FACE
HIDDEN BY A MASK.
HE'D EXAMINE YOU SEXUALLY
WHILE LAUGHING.
HE SAID 'YOU LIKE THAT'
BUT I WAS SCREAMING.**

– 83 YR OLD CARE LEAVER

Another Care Leaver whom CLAN assisted, was subjected to multiple perpetrators and multiple incidences of penetrative abuse and BESTIALITY. This was clearly outlined in the application form but was missed by an IDM. This Care Leaver received \$100 000! It was only from the advocacy of CLAN to the Ministers Office and Redress Officials along with a request for a review that the bestiality was seen and acknowledged with him then receiving a payment of \$150 000. The fact that everyone involved with his application from redress missed the word bestiality in his application is a cause for great concern. How could this happen? This Care Leaver said to CLAN "What has to happen to you in order to be assessed by Redress as extreme circumstances?". CLAN is in fact wondering the same.

As a result of this disgraceful incident all redress applications that CLAN assists with now have the following information summarised and written in red at the bottom of the abuse experience question:

Type of abuse.

How many penetrations?

Type of penetration.

How many paedophiles?

Names of Paedophiles.

Bestiality in capitals if it occurred.

This example suggests that IDM's and other redress employees are not closely or properly reading application forms. This is information that is the deepest, darkest, secrets for many Care Leavers, laid bare in an application form in order to receive some semblance of justice for the crimes perpetrated upon them. The disrespect that is shown by IDM's who do not read applications properly is heartbreaking for Care Leavers who go through so much pain and suffering by reopening old wounds to receive the acknowledgement that redress is supposed to be offering. Why wasn't the IDM and other redress employees involved asked to apologise to this Care Leaver? Instead, CLAN's redress liaison contact Mel apologised on their behalf when she had nothing to do with the incident and was not to blame for any wrongdoing.

In another example of inconsistencies between IDM's and payment outcomes we have seen as above on multiple occasions, internals and other digital penetrations be awarded \$100 000. We have subsequently seen another Care Leaver who suffered fifteen incidences of rape (penile penetration) to also receive \$100 000. CLAN would assume based on the matrix used for assessing applications that this Care Leaver would have received \$150 000 and her application be viewed as an extreme case. CLAN are completely perplexed as to how these decisions are actually made and why there is so much inconsistency between IDM's.

These inconsistencies bring up another issue and that is the transparency of the NRS. There are no clear guidelines provided to Care Leavers (and other applicants) as to eligibility and exclusions. These also are not provided to support services assisting applicants. Care Leavers / applicants rights and responsibilities are not provided to them by the NRS, and essentially, applicants are going in blind as to what makes them eligible, what is excluded and what their rights are within the NRS. Similarly, Care Leavers and other applicants are not provided with a copy of the assessment matrix, making it more difficult to highlight and elaborate on important information that may otherwise be thought of as insignificant.

As you can see from the examples we have discussed, the levels and types of inconsistencies are completely unacceptable for a Redress Scheme who is meant to be remedying and acknowledging the criminal acts committed against innocent children. If Care Leavers were provided with clear guidelines as to what is and is not accepted eg rape and sodomy after absconding is NOT included, then it would save Care Leavers a lot of heartache, depression and anxious waiting for justice and recognition. **All the scheme is currently doing is retraumatising Care Leavers and reinforcing their distrust of for the government, and those in authority.**

Delays

CLAN still has Care Leavers for whom we are nominees, waiting for redress who applied in 2018, this is their THIRD YEAR OF WAITING. **One Care Leaver whom CLAN are assisting has Motor Neuron Disease and is one of the Care Leavers waiting into her third year. This is despicable. Redress were informed months ago and still nothing has been done.**

On the most part, these delays are still continuing due to the woeful decision to push back the date for Institutions to join the NRS. This in turn delays the application process for all those who are waiting for an institution to join. Some of these Care Leavers who are being forced to wait are elderly and ill and literally do not have the time to be waiting. A 75 year old Care Leaver recently told us that she is being forced to wait and whenever she tries to find something out 'you just don't get answers back'.

Moreover, the longer institutions take to join, the more Care Leavers with prior payments will be indexed. How this can continue to go on is perplexing and only proves that the National Redress Scheme is Institution focused and not meeting its responsibilities to the people the scheme was established for.

As of late the NRS has been using Covid -19 as an excuse for delays. Whilst this may be the truth for some delays, it must be acknowledged that there was a huge backlog and extensive delays before Covid even existed. Utilising it now as an excuse for the extent of delays needs to stop as we are all well aware of the other circumstances surrounding the delays at the NRS.

CLAN also believe that the fact Care Leavers applications are now being investigated is a contributing factor to the delays we are seeing. It seems as though the NRS and IDM's are conducting a forensic investigation. If Care Leavers wanted to be the subject of a forensic investigation, they would not go down the path of Redress which is contrary to the reason it was set up. The Royal Commission recommended a redress scheme be established because it understood the limitations facing Care Leavers in taking other civil litigation avenues. The difficulty with providing evidence was one of those limitations. Anyone who understands how the care system operated will know the lack of records available documenting Care Leavers time in care is a widespread fact. There are many situations of records being destroyed either at will by institutions or in natural disasters like floods and fires. Moreover, the information contained within care records was incredibly biased and not based on a standard or view point we would find acceptable today. It did not document the crimes committed against Care Leavers nor did Care Leavers have the ability to counter claims made in files or present the authorities with their viewpoint. Children were expected to be seen and not heard, they were not valued and those in care were used and abused in every which way – do we really think those who were abusing them are documenting their own wrongdoings? CLAN finds the fact that the NRS are endorsing evidence and fact finding is completely disrespectful to those whom the redress scheme was established for, implies that they are being untruthful and furthermore does not adhere to the recommendations of the Royal Commission.

CLAN have been advised that redress applications are assessed as they come in. However, we are well aware that there are Care Leavers still waiting for their applications to be assessed from 2018, and Care Leavers who have lodged their applications in 2019 who have already had an outcome. For example, CLAN know of one Care Leaver who lodged her application in November 2019 and received an outcome before another Care Leaver who lodged her application in November 2018. These were both similar cases and both institutions had already joined.

The National Redress Scheme need to know (and have been told multiple times) that waiting, for Care Leavers, is one of the most excruciating parts of this redress process. Imagine the stress of waking up everyday wondering 'if today's the day I will find out if my horrendous experience has been recognised, validated and acknowledged. That crimes committed against me are acknowledged as the crimes they truly were'. Care Leavers have had to wait for everything in their childhoods, food, bells, beatings to stop, abuse to stop, to go to the toilet etc. So now Care Leavers are once again forced to wait in line for a redress scheme to conduct a forensic investigation into the crimes committed against Australia's most vulnerable citizens. Care Leavers feel as if they are not believed all over again.

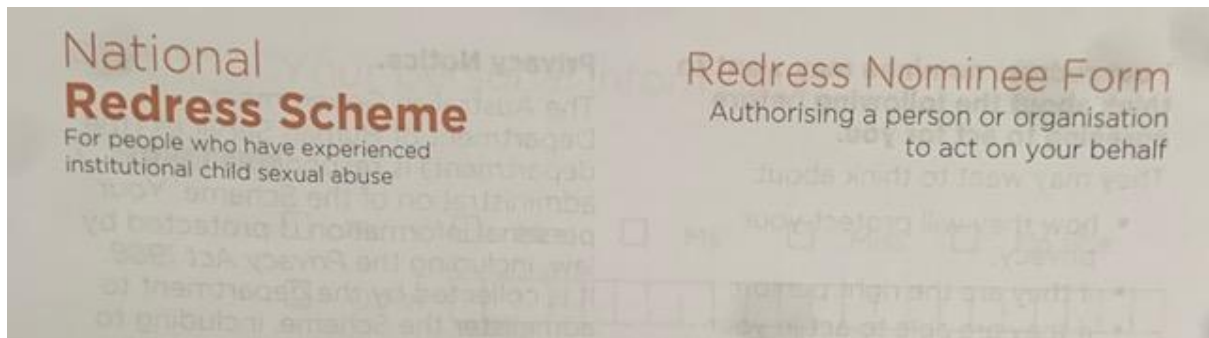
The delays, for whatever reason need to stop. Redress application forms for those elderly or ill need to be expedited immediately. Australia could follow the example of the Scottish Redress Scheme and make initial part payments to those in these categories to make sure they receive something from the Redress Scheme in case they die before their application is processed. The NRS needs to remedy the delays immediately as Care Leavers are declining both mentally and physically waiting for an outcome. Families of Care Leavers are also the silent victims in this process, waiting and trying to support their family member throughout this long and arduous period. Care Leavers are also dying waiting, or dying soon after receiving their payment, never getting a chance to use it.

Nominees

CLAN have had a great deal of trouble dealing with the National Redress Scheme with regard to nominees and nominee forms. When a Care Leaver requests that CLAN assists them to fill out their application form, we discuss with them whether they would like CLAN to become a nominee and what this entails. The majority of Care Leavers prefer CLAN to be a nominee and so nominee form paperwork is filled out at the same time as a redress application. The two forms are sent to the Care Leaver at the same time to sign and return to the NRS. This seems to be where the problem begins.

Whilst we believe there is a significant delay in processing redress applications, the delay in many cases in processing nominee forms would be laughable if it weren't frustrating and impacting Care Leavers so negatively. CLAN expects that when the nominee form is received it is processed and a confirmation of nominee is sent out. However, CLAN only receives these in about half our cases. In some cases, they have noted it down on the system but not sent out a confirmation. **In other cases, they take so long to process the nominee form that we receive paperwork confirming CLAN as a nominee AFTER A REDRESS APPLICATION HAS BEEN FINALISED AND AN OUTCOME HAS BEEN RECEIVED.** This has happened on more than one occasion. This means that the NRS is not using nominees to support the Care Leaver when receiving their redress outcome. In other circumstances they refuse to talk to CLAN even though the Care Leaver has submitted nominee paperwork because it is not on their system yet due to either their delays or the possible misplacement/losing of Care Leavers paperwork. THIS IS NOT GOOD ENOUGH.

CLAN also believe that some Care Leavers mistake the nominee form which is sent to them as a second redress application and do not send it to the NRS. We believe this is the case as the words 'Redress Nominee Form' are small in font and size and are not noticed. Please see below.



As you can see the dominant words on the form are 'Redress Scheme' which are bigger and bolder than anything else on the page. As a result, the wording on the other side may get missed.

As a result of all the issues surrounding the Nominee Forms CLAN have now introduced a policy of stapling nominee forms to Redress Application Forms in the hope they will not be missed by the Care Leaver or misplaced or not processed by the NRS.

Care Leavers request CLAN to be a nominee so that we can liaise with the NRS on their behalf. In many cases contact with the NRS only serves to trigger and retraumatise them and in the best interest of their mental health they do not want to have any contact with the NRS. How can the NRS claim this scheme is Care Leaver/victim focused when its ineptness prevents them from speaking to nominees to safeguard the mental health of Care Leavers. We ask that you please review this information along with the case studies and examples included in our prior submission around this topic.

In other cases CLAN have been liaising with the NRS as a nominee for over a year (or even two years in some instances) when we receive a call to say a particular Care Leaver has no paperwork naming CLAN as a nominee. THIS IS AN ABSOLUTE FARCE. This has happened on more than one occasion and is not an isolated incident. CLAN ensures that everyone we speak to who wants us as a nominee sends in the paperwork. How and why would the NRS speak to us about a Care Leaver in the first place if they did not have this paperwork? This leads us to believe that there is a major issue with the data system that the NRS are using. In one case (also mentioned in our prior submission) CLAN had to physically go through our paperwork to find a confirmation of nominee and send this back to the NRS to prove that we were a nominee when they were adamant that we weren't. The issue with this is that in our experience they do not always send us a confirmation of nominee so the absence of a physical letter is not always proof that we aren't a nominee. THIS SYSTEM IS A FARCE.

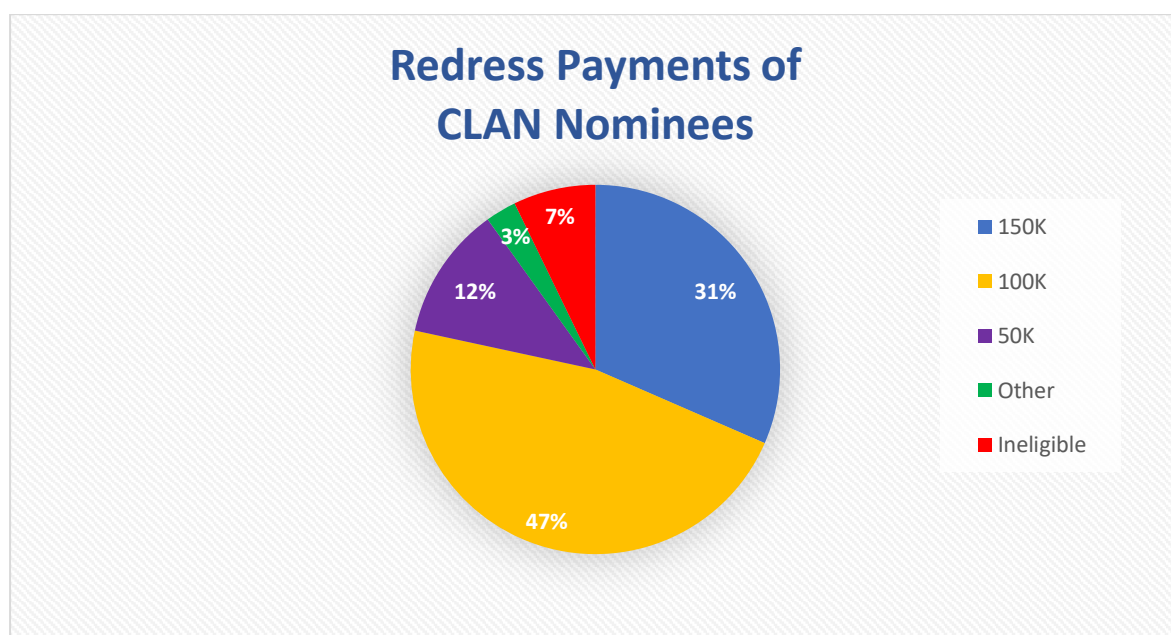
The other issue that we seem to battle on a daily basis is the fact that some Care Leavers do not want ANY contact with the NRS and ask them to liaise entirely with CLAN instead. In many cases their wishes are not followed, and they still receive follow up calls, calls asking for more information etc. We have had many Care Leavers call us who are beside themselves after being directly contacted by the NRS. Contact with the NRS is TRIGGERING, it is upsetting and anger provoking. **Also referring to case mentioned in our prior submission, but we have since had a development, one Care Leaver who asked not be contacted by the NRS was contacted and had someone from the NRS bring up an incident that was mentioned in an attached document but not in the Care Leavers actual form. The mentioning of this incident severely retraumatized this Care Leaver and has caused a lot of anxiety and depression since. The NRS went on to encourage both the Care Leaver and CLAN to include this incident of abuse. The Care Leaver eventually decided to include this incident after much thought and having the wounds reopened. CLAN assisted this Care Leaver to write about this incident and submit it. CLAN and the Care Leaver were of the belief that once this**

was sorted her application would be resolved quickly (she had already been waiting almost two years at this stage). After some time passed, CLAN enquired as to what the hold up was only to hear that the incident of abuse which the NRS encouraged to be included was associated with Melbourne City Mission - an institution who hadn't yet joined and at this point in time had no intention to join. Her application form was now indefinitely on hold, and the NRS knew this would happen but did not mention it at any stage so the Care Leaver could make an informed decision. We believe that her institution has recently joined but she is still awaiting an outcome. It has been more than two years. Furthermore, we recently received a call, after CLAN liaised with the NRS over this issue and many other issues to do with her case over a two year period, telling us that they have no paperwork listing us as a nominee. **THIS IS RIDICULOUS AND THE SYSTEM NEEDS TO CHANGE.**

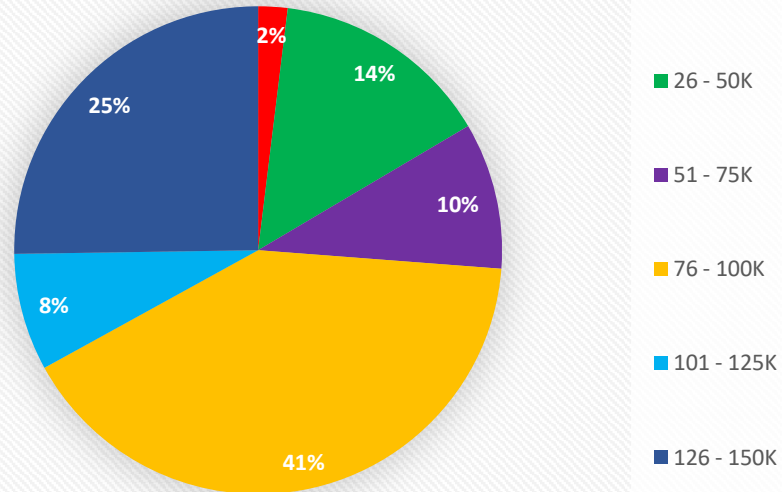
CLAN has to question why the NRS give the option of using nominees at all? It is clear that they see no importance in processing nominee forms expeditiously. It is clear that there is a fault on their system which shows CLAN as nominees at one point in time and not at others. It is clear that they have no intention of abiding by Care Leavers wishes not to contact them, instead preferring to worsen and harm their mental health by repeatedly contacting them when they could be utilising the nominee that the Care Leaver has put in place. It is clear that the whole system of using nominees is beyond a joke, it is broken, and it needs immediate fixing.

Payments

CLAN have started to see a reduction in payments from \$150 000 to \$100 000. When the scheme was first established in 2018 there seemed to be an initial influx of the top level of payment, but this has now plateaued. It appears to CLAN that there has been a recent policy of keeping payments at \$100 000. CLAN have been told by one agency recently that they have ten claims to pay Care Leavers, and each one of them is for \$100 000. Please see the below pie charts outlining the levels of payment CLAN has seen for Care Leavers whom we are nominee for.



Redress Payments of CLAN Nominees - After Reductions and Indexing



We cannot see a difference in the type of applications we are putting through, however, we are starting to hear that IDM's are not assessing as many applications as 'extreme circumstances. **As mentioned in a previous example one Care Leaver was raped 15 times and this was not assessed as extreme. She was given \$100 000 the same figure as Care Leavers who were given one internal examination. We do not take anything away from their payment but rather advocate that this Care Leaver is surely worthy of the top level of payment.**

Our question to the NRS and IDM's is what constitutes an extreme circumstance? How many times does a child have to be raped and by how many perpetrators for extreme circumstances to be considered? What has to happen to a Care Leaver in order to be assessed as extreme circumstances? Do we not think that any child being raped once is extreme enough?

As we spoke about earlier in our submission **IDM's missed bestiality in an application and labelled that application as not extreme circumstances. CLAN believes that if this sort of assessment is to continue, Care Leavers, CLAN and other support organisations should be provided with a definition of 'extreme circumstances.** We have since found out that there is only a definition in the legislation of extreme circumstances but not a working definition that is utilised by those at the NRS. Without a working definition provided to everyone (the NRS and support services) we believe we are relying on the whim of IDM's who have already proved that they have no consistency between application outcomes.

Furthermore, CLAN are still seeing a difference in payments given to those who were abused and raped by females compared to those who were abused and raped by males. We have seen males who were abused and penetrated by women on multiple occasions receive the same as females who

have one incident of digital penetration. It is our belief there is either a subconscious bias or blatant sexism that is guiding IDM's to believe that abuse perpetrated by women is not as severe or 'extreme' as abuse perpetrated by men. It is for this reason that CLAN also recommend that every redress application be assessed by at least two IDM's, one male and one female, to counteract subconscious gender bias. Please refer to our prior submission and the following link – an ABC The Drum interview for an example of a Care Leaver who was abused by a woman and the effect it can have: https://www.youtube.com/watch?v=bEABZGCp_a0&app=desktop

In another case, an 87 year old WA based Care Leaver received an outcome of \$95 000 minus indexing and a prior payment which left her with \$67 016.92. She did not feel this adequately reflected her abuse and reviewed the outcome. **This review for an 87 year old Care Leaver took 3 months** and upon review, her payment was not increased. In fact, the NRS believed that the original indexing was not applied properly, and she should have been given a lesser outcome of \$65 124.95. CLAN were then told that she was receiving \$1891.97 as '**compensation for defective administration**' by the NRS. This is a policy we have never heard of until 15th September 2020 and this small payment only served to bring her amount in line with her original amount. The whole review process was a farce and only served to highlight the incompetency of the NRS.

Indexing

It is widely known that CLAN DO NOT AGREE WITH INDEXING. The practice of penalising Care Leavers for a payment they previously received (and most likely already used) is nothing more than penny pinching. The fact that this number is also affected by the time it takes for institutions to join the scheme and the time it takes for the NRS to process an application is preposterous.

CLAN endorse prior payments being considered so the total payment all Care Leavers receive is fair, BUT NOT INDEXED. If Indexing is to occur, then it shouldn't be enforced from the time the scheme was established which only rewards redress laggards. This practice is a prime example of this redress scheme being institution focused. It is practically rewarding institutions for delaying joining the NRS by ensuring that they will pay less due to indexing. Care Leavers should not be penalised because Institutions have lost their moral compass. How is this fair and just in a scheme that was meant to be established to remedy the wrongs Care Leavers and others were subjected to?

CLAN find it remarkable that past providers of Institutional care cannot find Care Leavers 'care' records, but have no trouble keeping documentation of the paltry amounts of money they have paid to Care Leavers in the past.

Another issue we have since found is the discrepancy of indexing when taking into account lawyers fees. In theory the amount that is indexed is meant to be after lawyer's fees have been taken out as that is the amount that Care Leavers physically received. **We have recently encountered a case where the Care Leaver was unsure about how much she paid in fees to the lawyer and where the paperwork from over a decade ago would be stored. The NRS contacted the solicitor's firm who refused to divulge how much they charged the Care Leaver in fees. Therefore, the NRS made the initial determination to index the entire amount of the prior payment. How can legal firms have the right to withhold this vital information which plays a large role in determining the correct amount? When Care Leavers have their application investigated and evidence obtained from relevant parties, how does the NRS allow legal firms to withhold this information for no valid reason? Luckily in the case of this Care Leaver she showed resilience and tenacity by speaking to her bank and rifling through boxes of paperwork to find the letter confirming her solicitor's fees.**

This should NOT BE EXPECTED of Care Leavers though. The process is retraumatising enough without forcing them to prove how much money they have already had to pay to people to obtain what never resembled justice anyway.

We recommend your redress review to STOP indexing immediately for the poorest of abuse victims, Care Leavers. We also recommend that a refund be given to all Care Leavers who have already been indexed through the NRS. Furthermore, there needs to be a way to obtain the information about Care Leavers solicitors fees from legal firms if they are for whatever reason unwilling to divulge it. Care Leavers should not be expected to keep decades old paperwork to prove their payment amount and definitely should not be retraumatised in the process of doing so.

Breaches of privacy

CLAN has a great many concerns regarding Care Leavers privacy being breached in the National Redress process. We have attempted to address these concerns with the Minister for Families and Social Services, Senator Anne Ruston, only to be met with what we deem an unsatisfactory response.

It has become clear that Part 3 of the Redress Application Form, is being shared with insurers and the abusive institutions, even if the redress applicant is ticking 'No – I do not agree to share Part 3' with the relevant institution. Whilst we understand that there is the specific labelling of 'institution' in this section, the fact that Care Leavers and other applicants are given a choice is misleading, and that this information is still shared with other parties. Whilst the Minister points out it is mentioned on page 5 and page 8 of the notes at the start of the form that information may be shared with insurers, CLAN contends that it is not mentioned on the ACTUAL PAGE where a choice is given regarding the institution being privy to this section.

Many Care Leavers struggle with literacy and as a result of being in care have low levels of formal schooling. Many would not read the 9 PAGES of notes, not just because of literacy levels but also due to the stress and anxiety of filling in the forms in the first place. The state of mind that Care Leavers are in when filling in this application is not conducive to reading fine print. The fact that Part 3 being shared with insurers is not mentioned again on the ACTUAL PAGE is purposely misleading to applicants who DO NOT WANT THEIR **PRIVATE INFORMATION SHARED WITH THE WORLD**. It is hard enough for Care Leavers to come to terms with those at the NRS and Independent Decision Makers reading their most deeply personal, private, information, but to know it is being shared with 'other parties' including insurers is violating. How many sets of eyes are actually looking over Care Leavers personal and private information? This is yet another reason why Care Leavers are hesitant to apply for Redress.

This causes us to also question, why should insurance claims between the institutions and their insurers be the issue of Care Leavers? This is supposed to be a Care Leaver focused redress scheme, and instead, Care Leavers privacy is being violated so that institutions can part with less money and have their insurance companies cover their claims. This is preposterous. If this were truly Care Leaver focused, the scheme would not be divulging the most sensitive of information to insurers in order to assist the institutions. Further thought needs to be given regarding whom the NRS is really assisting and protecting because these disclosures are not in the best interests of Care Leavers, but certainly do assist the Institutions.

CLAN believe there is intentional manipulation and misleading by the wording and placement of information on the form. If the NRS really wanted to make clear that Part 3 would still go to the insurers or 'other parties' despite an applicant choosing not to share the information with the Institution, it would be written on the same page in the same section. It is not, and we all understand the purpose of fine print and 'notes' where information is shoved in the hopes it is not read through properly.

CLAN have also been the recipient of information that was intended for an applicant that has nothing to do with CLAN. CLAN were sent a redress outcome letter earlier this year for an applicant whom we are not a nominee for. We have no idea who the applicant is and have no connection with them. This is a huge breach of their privacy, and if CLAN are receiving correspondence meant for other people, it calls in to question who else is receiving private and confidential information about redress applicants?

CLAN also ask the basic questions of when this information is handed over to Institutions, insurers and 'other parties' how is it stored, how is it used, and how is it destroyed? These are basic questions regarding the care of Care Leavers most private information and Care Leavers deserve answers. We are asked to trust these organisations with our information, but the way the NRS has misled applicants does little to ensure that trust. The Royal Commission placed a 99 year embargo on Care Leavers private information. They gained Care Leavers trust and respect and the NRS are undoing this legacy and all of the trust that the Royal Commission earned from Care Leavers by prioritising the needs of institutions and sharing the most private, personal and distressing information with other parties. Will this be the legacy of the NRS? This is shameful and needs to be addressed before it alienates ALL Care Leavers from applying to the NRS.

Direct Personal Response

It has been well documented that there is a low take-up rate of the Direct Personal Response (DPR). For many Care Leavers, they want nothing more to do with their institution. In the past, apologies and remedying the wrongs have not been forthcoming and they do not wish to revisit this scenario now.

Another issue with the procedure of the DPR is that many Care Leavers do not understand that they have to initiate it. When they tick that they would like to access a DPR they do not realise that they have to have more contact/do more work, to actually receive the thing that is being offered. CLAN believe that if someone requests a DPR by ticking the box they should not have to do anything more to receive it. This scheme is supposed to be Care Leaver/survivor focused, and if it were it would not be making Care Leavers take further steps to get their own apology. Perhaps if the NRS and the institutions took entire responsibility for this the take up rate would not be so low.

The biggest issue we have with the DPR process is the mindset of the institutions who are delivering it. This is one of the main reasons many choose to avoid it in the first place. It is well known that the Institutions DO NOT WANT TO TAKE RESPONSIBILITY for their actions, even after they have paid for what the NRS has deemed them liable for.

Take for example a Care Leaver who recently opted to receive a DPR. This Care Leaver was sexually abused at Ballarat Orphanage and the responsible organisation is Child and Family Services (CAFS). CAFS delivered an apology with the wording "deeply regrets the feelings from which you suffer" and apologises for "those feelings and their causes". This apology letter could

not be more impersonal if they tried. These are the types of letters of apologies that Care Leavers have always received from institutions, impersonal and trying to avoid liability through their words. It is for this reason that many just avoid the DPR process altogether. For those who opt for the DPR in the hope they receive something real and meaningful their hopes are once again dashed.

CLAN cannot understand, especially in the context of the NRS why these letters of apology are so poor. They have already paid Redress; the Care Leaver has signed away their rights to pursue this at a further date and the NRS has already deemed the institution liable. Why then, what reasoning do they have to produce such fake, meaningless apologies? DPR's like this cause irreparable hurt and suffering and does more harm than good. Why is the Care Leaver's abuse not mentioned? Why is the institutions responsibility for that abuse not mentioned? Why are the actual 'feelings' not mentioned? Surely there are some basics to writing an apology, and ones like these do not meet the basic standards.

In another case, CLAN attended a DPR in South Australia where the South Australian Government flew the Care Leaver over who lived in Western Australia. At the time of the DPR the apology had not even be written down and prepared to be given to this Care Leaver.

It must be understood that if Care Leavers are receiving apologies and DPR's like this one (and historically they have) the take up rate for DPR's will remain low, and rightfully should. It is support services like CLAN who end up picking up the pieces of Care Leavers who are impacted so negatively by DPR's like this. It would be better that the option be taken away before one more apology like this is issued.

Conclusion

There are just so many issues that keep arising with regard to the National Redress Scheme. Whilst all the points we made in our previous submission to the Joint Select Committee are still valid, there are many new issues that have been brought to the fore in the last few months also.

We truly hope that this independent review can see the many issues that Care Leavers and support services like CLAN are up against. There have been several inquiries and committees thus far investigating the National Redress scheme, but so far it has been to no avail, nothing has changed. For a scheme that was meant to be Care Leaver focused it feels as if we are fighting a daily battle against the NRS and its procedural inconsistencies and inadequacies. The longer this scheme goes on, the more it feels like it is dealing with Care Leavers like they are an insurance claim, conducting forensic investigations and finding any which reason to decline the 'claim'.

Care Leavers have been apologised to in 2009 and 2018 by Prime Ministers Kevin Rudd and Scott Morrison and Opposition Leaders Malcolm Turnbull and Bill Shorten. They believed Care Leavers and they apologised for all the crimes committed against them. The Royal Commission investigated the crimes committed against Care Leavers, they earned Care Leavers trust and they too believed Care Leavers. The National Redress Scheme however does not seem to reflect the same sentiment, the NRS does not believe Care Leavers about the crimes committed against them and instead chooses to investigate applications like they are investigating insurance claims. This is not Care Leaver focused, it is tarnishing the legacy of the Royal Commission and is creating a horrible name for the NRS. What will be the legacy of the NRS? At this point in time, nothing positive, but there is still time to change and turn this around.

The variety of issues which keep occurring only highlight the fact that this scheme is indeed institution focused. Care Leavers rights, privacy and dignity have all been compromised to make this scheme easier for institutions. This needs to change and it needs to change immediately. Give Care Leavers the dignity they were denied as children, believe Care Leavers, and stop the forensic investigation. Treat Care Leavers with respect and pay them before they die. We sincerely hope that this Independent Review can achieve some of this change and alter what seems to be the negative legacy the NRS is leaving behind.