



## **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.

# **Comment to the Tasmanian Limitation Amendment Bill 2017**

To Whom It May Concern,

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

CLAN would like to applaud you for taking steps to reform limitation periods pertaining to children who were sexually or physically abused. There have been many Care Leavers who have been denied the opportunity to achieve any sense of justice through civil litigation due to limitation periods. As the Royal Commission Into Institutional Child Sexual Abuse has highlighted, there are many reasons why children do not disclose their abuse. For some it is not disclosed for many, many years, even decades after the fact, and for others, they may never disclose the abuse that was perpetrated on them.

So why are limitation periods unreasonable for Care Leavers and other victims of childhood abuse? First and foremost, the psychological impact of child abuse is severe, chronic and multifaceted. The abused child's ability to trust is destroyed, and the genuine fear for their lives instilled in them by the perpetrator prevents many child abuse victims from seeking help. For older Care Leavers this wasn't even a possibility, they couldn't leave the orphanage or Children's Home to go to a police station, and the majority of the time there was no one else to tell. It is well known by now, that those entrusted to care for children in Institutions were most commonly the perpetrators, and the others in positions of power did nothing more than punish children who complained, and protected the perpetrator of abuse. In environments such as these, children quickly learn about self-preservation. Care Leavers had no one to turn to, and had been reinforced all their lives that no one would believe them anyway.

In 2013, CLAN conducted a survey of its members regarding sexual abuse and disclosure. It was evident that many Care Leavers were not aware of what constituted criminal behaviour or sexual abuse, to understand that a crime actually had been committed against them. Many thought it was just part and parcel of growing up in an orphanage/institution. CLAN's survey also found that 72% of respondents had not reported their abuse to the authorities. The main reasons listed for this were fear, intimidation by the abusers, concern they would not be believed, as well as a lack of understanding of how to report abuse. One respondent stated that they **"were so scared – all my life of the outcome. I was told no one would believe a low class ward of the state"**. Other respondents spoke about feeling too ashamed to speak about it, and another one said "I felt guilty and thought it was my fault".

Furthermore, most Care Leavers left care hoping to move on with their lives, and forget the horrendous abuse which they endured. Some turned to self-destructive behaviour such as drugs and alcohol leaving them impaired to a large degree, others tried to start a family and busied

themselves with children, while some others became workaholics and distracted themselves with work. Whichever path they chose, the thing most had in common was avoidance. Most Care Leavers by this stage would have had a diagnosable psychological condition such as Post Traumatic Stress Disorder, or depression, and as such like most others who suffer from conditions would have tried to avoid any situation or stimuli that triggered memories of their abuse. Considering these factors can it really be expected that a child abuse victim initiates legal action within a) three years of being abused, b) three years of turning 18 or c) even 12 years of being abused!

None of the current reasons for limitations periods to exist, are proper justifications to denying victims of child abuse compensation, redress and above all else justice. In terms of cases being decided on less evidence, it is amazing that in the criminal system where the burden of proof is to a higher standard, there is NO limitation period for prosecuting child sexual abuse. Why is it then that a defendant's rights are held more sacred in a civil court? In response to defendant's being able to move on with their lives, and the public interest to settle disputes quickly, surely obtaining justice for child abuse victims overrides this? Why should paedophiles and child abusers be able to move on with their lives, when the child they harmed is scarred forever? And surely the public's best interest is served when paedophiles and child abusers are held accountable for their actions. As quoted by Atkinson J, the "Supreme Court of Canada stated "there is no corresponding public benefit in protecting individuals who perpetrate incest from the consequences of their wrongful actions. The patent inequity of allowing these individuals to go on with their life without liability, while the victim continues to suffer, clearly militates against any guarantee of repose." CLAN completely agrees with this sentiment and would extend this to ANY paedophile or child abuser.

The only comment CLAN would like to make in terms of altering the bill is to include **ANY and ALL forms of child abuse including but not limited to physical and sexual abuse, psychological and emotional abuse, neglect and forced labour**. These are all types of abuses that can have lifelong impacts and all require compensation and justice.

**It is CLAN's firm belief that the limitation periods for personal injury should be abolished for those abused as children. We welcome the Tasmanian Governments plan to reform these limitation periods to bring themselves in line with other jurisdictions like NSW and Victoria. As you can see there are many reasons why child abuse in any form is not compatible with limitations periods and no reason significant enough to override a Care Leaver or other child abuse victim's right to this justice.**