

#### 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 Churches, charities and state governmentss.

# The National Redress Scheme and Direct Personal Response Overlook Care Leavers

"The nuns shouldn't have even bothered to do my DPR" - Anonymous Care Leaver

Submission to The National Redress Scheme Consultation Paper: Recommendation 4.7 Increasing the uptake and quality of the Direct Personal Response.

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 believes that the uptake of the Direct Personal Response (DPR) has been slow and lacking for numerous reasons which need to be addressed if this is to change. Whilst it is encouraging that the DPR is a legislative requirement, the way in which it has been set up by the National Redress Scheme (NRS) has been an afterthought. It is one thing to legislate that a DPR is a requirement but the NRS at this point in time has had no further role once the outcome letters have been returned and essentially wipe their hands of the process. This unfortunately leaves churches, charities and state governments, who historically have cared very little about genuine apologies and the best interests of Care Leavers, to their own devices, and Redress Support Services (RSS) such as CLAN carrying out all the follow up of Care Leavers, explanations and support just to initiate the DPR process.

As an RSS we have heard on multiple occasions about the DPR framework, and an institution's legislated responsibilities, however the poor quality and tremendous difficulty of some of the DPR'S CLAN have conducted to date suggest that many of these churches, charities and state governments are not complying with their obligations. However, aside from CLAN complaining to redress about our experiences there seems to be no compliance role for any churches, charities and state governments to partake in their DPR responsibilities and no consequences for when they do not. For many churches, charities and state governments, compliance with the National Redress Scheme and any Direct Personal Response obligations is purely to keep their Australian Charities and Notfor- Profits Commission (ACNC) registration and as such their charity tax concessions. Therefore, unless there are consequences for non-compliance with the framework, churches, charities and state governments will continue to deliver poor quality, ingenuine, and harmful or retraumatising interactions and apologies to Care Leavers.

CLAN will use this opportunity to review a number of the possible options and action areas discussed in your consultation paper. We have in the past provided direct feedback regarding the following issues of which we will not revisit in this submission:

- The language/wording of DPR it is confusing and not self- explanatory for Care Leavers. Plain English wording is required.
- Care Leavers are hesitant to engage with the churches, charities and state governments, whom are responsible for their abuse. Many have attempted this in the past and were treated disrespectfully and retraumatised by the treatment of the churches, charities, and state governments.
- Churches, charities, and state governments are not delivering Care Leaver informed OR
   Trauma informed apologies. They say, do, or wear things that are triggering to Care Leavers
   and either have no understanding or no regard for the impact this has on them.
- Timeliness issues Care Leavers are being pushed to do a DPR before they are ready.

#### **Action Area 1**

CLAN firmly believes that the outcome letter needs to be amended. Many Care Leavers have waited for long periods of time (some have waited years) to receive an outcome from the NRS. The outcome they have been waiting for is both financial in nature, and as a result of the financial outcome to feel they have been believed, understood and that some sort of justice has been done. Many Care Leavers have had prior contact with the churches, charities and state governments in the past and have had traumatic and negative experiences. At the point in which they are receiving their outcome call and letter they are too focused on their redress payment and the overwhelming feelings of what that payment means for them. At this point in time introducing the DPR is futile. The majority of applicants are not applying to the NRS to receive a DPR and discussing this at the same time as their redress payment simply serves the efficiency of the NRS but will not increase the understanding of the DPR or the uptake rate. We therefore agree with Option 1.1 and believe that by default every applicant who has received an outcome should be automatically eligible for a DPR if and when they choose to pursue it. Asking them to tick a box is obviously not translating into uptake figures and serves no purpose. The confusing wording of DPR often hinders Care Leavers from accepting it and results in a lot more work when they realise what it is and want to accept it after all. CLAN suggests that moving forward the outcome letter is simply a reflection of the redress payment that has been discussed prior and provides the opportunity for the applicant to accept or decline that payment.

CLAN also agrees that additional questions should be asked about a DPR similar to what is discussed in Option 1.2. However, we don't believe that these questions should be asked/presented to the applicant during the outcome call/letter. CLAN feels that it would be more beneficial for Care Leavers to receive this information a couple of months after the financial redress offer has been made and accepted. Once the financial offer has been made and Care leavers are no longer so overwhelmed and their ability to focus on and process the information associated with a DPR would be greater.

With regard to Option 1.3 CLAN do not agree that this would be a desirable option. Many Care Leavers would see an acknowledgement from the NRS as meaningless as they played no part in the crimes, abuse and maltreatment perpetrated upon Care Leavers. For many Care Leavers they already believe a DPR is worthless even when conducted by the church, charity or state government. Perhaps it could be an option for those who have no option of a DPR from their churches, charities and state governments for various reasons however this would need to be discussed with the individual as for some it may be more upsetting/triggering for them.

In terms of Option 1.4, CLAN already carry out this model of organising DPR's with Care Leavers who have had our assistance through the redress process. CLAN serves as the intermediary and makes contact with the churches, charities and state governments to discuss the DPR and what the Care Leaver wants. Whilst this model works for CLAN it is time consuming and often involves CLAN performing continuous follow up to see if the Care Leaver is ready to begin the DPR process, and also continuous follow up of churches, charities and state governments who don't get back to us in a timely manner or who ignore the needs and preferences of the Care Leaver and deliver upsetting and triggering apologies etc.

Only recently we had a case where we wrote to the Sisters of Nazareth asking what their process for a DPR was and instead of giving us that information we received an email two days later with an apology letter attached (Please see Appendix 1). The fact that they simply wrote out a quick apology without consulting CLAN and the Care Leaver negates the whole purpose of a DPR. CLAN hadn't

even requested an apology, simply what the steps were to initiate the DPR process. Whilst the Sisters of Nazareth may believe that writing out a quick apology prevents the Care Leaver from waiting, it in fact only serves to retraumatise them. The Care Leaver in question reported that he felt:

- Rushed.
- It was insincere.
- Like a standard reply to get rid of him, like it was a tick box process.
- They didn't acknowledge the pain and suffering he experienced.
- They were trying to be "godly" but didn't show him any real compassion.
- They shouldn't have even bothered.

Cases similar to this occur more often than CLAN can report, proving to us that the churches, charities and state governments aren't complying with the DPR framework. Moreover, it significantly increases our workload when serving as an intermediary and support for the DPR process.

#### **Action Area 2**

CLAN strongly agree with Option 2.1 that there needs to be enhanced messaging and information/explanation throughout the redress process so that Care Leavers and other applicants understand what a DPR is and what it entails. We do however, as previously discussed, believe that the wording DPR itself is too complicated and needs to change to something plainer and in 'easy English'.

CLAN also believe that Option 2.2 would be a beneficial addition to the NRS and can work if carried out in conjunction with RSS. CLAN have long felt that the way the DPR component was set up through the NRS has been disappointing. The NRS have essentially created a legislative requirement and then wiped their hands of the implementation of this requirement, in essence leaving it up to Care Leavers (and other applicants) along with RSS to carry out the DPR process. It seems extraordinary that in setting this up the NRS played no role in the DPR and unfortunately many of the churches, charities, and state governments are not complying with the framework. CLAN feels that a dedicated DPR liaison officer would assist the RSS in the follow up of applicants who have had an outcome and are considering a DPR. Furthermore, it would be this role that could contact applicants with an outcome a month or two after their financial offer has been finalised to inform and discuss DPR options. It would be at this point of contact that the options/questions mentioned in option 1.2 could be discussed. CLAN feel that this sort of role would save RSS a lot of time and leaves us free to act as an intermediary and provide support to the Care Leaver when they are ready and understand what it entails.

Furthermore, CLAN also believes that having an official DPR liaison from the NRS would create greater compliance from churches, charities and state governments who currently are doing the bare minimum to ensure they deliver a DPR. Whilst we understand the NRS says they do not have a compliance role, the mere presence of someone from the NRS ensuring the process runs as it is meant to and that churches, charities and state governments are following the DPR framework is going to result in better outcomes than having no one in this role.

#### **Action Area 3**

**CLAN** does not feel that professional facilitation would be necessary if there was a dedicated DPR liaison officer. Professional facilitation was also not a recommendation of the Royal Commission. CLAN can also foresee a number of issues concerning professional facilitation or a restorative engagement expert. Prior to the NRS many churches, charities and state governments used professional facilitators/mediators within their professional standards units and CLANs experience of this with Care Leavers was less than impressive, in fact it bordered on unethical. The facilitators are paid by the churches, charities and state governments and CLAN would see the same facilitators used multiple times, obviously after achieving desired results for the churches, charities, and state governments, regardless of the result/impact for the Care Leaver.

Furthermore, it is our understanding that the DPR process is meant to be survivor focused, attempting to provide a DPR that complies with an applicants wishes and is meaningful for the applicant. The churches, charities and state governments should be doing whatever they can within reason to achieve this, however for some churches, charities, and state governments even the simplest wishes are not adhered to thus triggering and retraumatising Care Leavers. There should be no need for a facilitator as the process is not about the churches, charities and state governments getting what they want, reaching a compromise or having their needs met, it is about the Care Leaver and other applicants!

CLAN are also concerned over the level of understanding and knowledge that any facilitator would have concerning Care Leavers. Responding to Care Leavers and being Care Leaver informed and sensitive to their needs isn't something you can understand unless you have worked with and learned about Care Leavers in detail. We are doubtful that many facilitators would have done this and thus they present a bias and a danger to the 'do no further harm' principle that the DPR is meant to align with.

CLAN would much prefer to see elements of Action Area 2 implemented to exist alongside RSS and the work we already do than to see any part of Action Area 3 implemented.

#### **Action Area 4**

CLAN agrees that enhanced training and educational resources need to be directed at both the churches, charities, and state governments and applicants in order to improve uptake and create more meaningful survivor focused outcomes. However, there is a glaring gap in the discussion: the lack of input from the lived experience of Care Leavers. Training and educational support without that input lacks authenticity and is likely to be less effective. It is quite wrong to assume that expertise is held only by professionally qualified persons.

As mentioned previously, CLAN does not see the value in professional DPR facilitators if an internal role is created within the NRS and therefore we do not believe any educational resources should be focused on that direction.

As discussed previously in this submission changes regarding contact, language and enhanced messaging will help with the understanding for applicants however CLAN is cynical as to whether any more training will actually change the way some churches, charities, and state governments are approaching the DPR. For many churches, charities and state governments, the threat of ACNC deregistration and charity tax concession sanctions has forced them to opt in to the NRS, not because they are survivor focused or believe in justice or acknowledgements for Care Leavers and

other applicants. CLAN would like to see churches, charities and state governments undergo mandatory Care Leaver training and have their training status listed on the ACNC listing. We do however believe that the only thing that will get some of these churches, charities and state governments to comply with the DPR framework are sanctions if they don't. CLAN regularly sees that the DPR is a 'legislative requirement' but as far as we are aware there are no proper compliance checks and there are no actual sanctions/consequences for institutions reluctance to treat Care Leavers and other applicants with the dignity they deserve.

There have been other institutions such as the NSW Government who in our experience has shown a genuine willingness to deliver whatever they possibly can to address the needs of Care Leavers and have listened and tailored the DPR's to what has been requested of them. For institutions such as these continuous training for new contacts, and training from cohort specific groups such as CLAN will allow churches, charities and state governments to gain a better insight into who they are dealing with and how they need to address specific cohorts. CLAN understands that institutions have received generic training regarding being trauma informed by the NRS, but CLAN feels it is inappropriate and offensive that a public servant would be providing training to churches, charities and state governments regarding Care Leavers.

Conversely, CLAN also had interactions with the WA state Government recently regarding a DPR for a Care Leaver we have recently supported throughout the redress process. CLAN were surprised to learn that the WA state government do not use the words DPR and instead have changed the term to 'Recognition and Apology Process' (Please see Appendix 2). Whilst we personally believe that this wording is more understandable for Care Leavers the issue remains that a DPR needs to be standardised across the country. It is not for one state government to decide to change the language and messaging if it is not formally changed across Australia. Have the WA state Government consulted the NRS to change the wording and has this wording been given formal approval to be used? Additionally, CLAN were disappointed to see that we were not listed as a support service for Care Leavers on their documentation despite being the only national service for Care Leavers and a RSS. This speaks volumes regarding churches, charities and state governments being Care Leaver informed when they don't even list a specialised Care Leaver service on an information sheet given to a Care Leaver who CLAN have supported for ten years (Please see Appendix 3).

CLAN must also state how disappointed we are to once again see that Care Leavers are not mentioned with regard to having diverse needs in a way that affects their interaction with the NRS. Care Leavers have been recognised as a special needs group within the aged care setting, however this recognition has not translated to other areas of society. From NRS statistics we can see that approximately 62% of applicants to the NRS are Care Leavers, by far the majority of those who have lodged an application.

Q36 option checked		Count	Total Count	
'Out of home care'	A State ward	5,003		
	A foster child	1,140	7,735	
	In relative or kinship care	487		
	Under other court ordered care	1,105		
Other forms of care	An unaccompanied child migrant	168		
	A military cadet	133	413	
	Apprentice in the Defence Force	112	]	

The total applicants in the Scheme as at 29 October 2021 is 12,469. In instances where an option is checked in multiple instances of abuse within an application, it is only counted once.

How is the NRS not acknowledging the diverse needs of Care Leavers? This is a problem we have seen from the initial implementation of the NRS that we did not seem to have in the duration of the Royal Commission. This flawed pattern is however consistent with the operational reports of the

NRS itself. While it regularly reports data on key cohorts, it routinely fails to report data about survivors who are Care Leavers (whether they be defined as State Wards, 'Voluntary' Placements, or in Foster Care, or some other sub-category).

An indicator of this deficiency in key data can be found, for example, in the report on Strategic Success Measure in July 2021 published by the NRS. The issue of survivor accessibility is correlated with old age, Aboriginal and Torres Strait Islander people, those with a disability, and those living in rural and remote areas. CLAN knows from direct experience that Care Leavers would feature prominently in all those categories. The Table below illustrates the point perfectly.

# applicants aged 70 or older applicants who identify as Aboriginal or Torres Strait Islander applicants self-identify as living with a disability \* applicants who live in a rural or remote location Metric: The number of survivors who successfully lodge an application with the Scheme each year, published according to survivor demographics, such as participation by Aboriginal and Torres Strait Islander I rural and remote I disabiled I elderly. disability is not a term defined by the Scheme. Applicants may self-identify as having a disability which includes illness and age-related conditions.

3a. SCHEME ACCESSIBILITY

#### **3b. SCHEME INTERSECTIONALITY**

	Elderly	Aboriginal and Torres Strait Islander	Disability	Rural and remote
Elderly	1,906*			
Aboriginal and Torres Strait Islander	421	3,089		
Disability	1,002	1,609	4,788	
Rural and remote	880	1,626	2,278	4,511

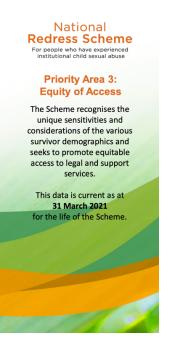
\*Aboriginal and Torres Strait Islander elderly are defined as aged 50 or older, whereas for all other applicants it is 70 or older.

#### Commentary

Intersectionality demonstrates how different survivor cohorts overlap and highlights the unique demographic of the survivor cohort.

For example, **2,278** applicants self identified as both having a disability and living in a rural or remote location.

The support services offered are culturally and linguistically diverse, noting the diversity of applicants in the Scheme.



In the past, CLAN has repeatedly asked for that kind of data for Care Leavers because we are convinced that sound data is necessary if policy and practice are to be adequately reviewed. CLAN hears comment by Care Leavers that they are suspicious of the NRS: that IDMs are not treated them fairly, that Care Leavers' applications take longer to process, that fewer of them get the top of the payment range, and that more of them get rejected. In specific reference to the DPR, we do not have data on Care Leaver take up, but we suspect that a high proportion of those rejecting DPR are Care Leavers. CLAN is unsure why the reluctance of the NRS to acknowledge Care Leavers as a separate group with diverse needs and as such collect data reflecting their engagement with the NRS.

When you think about the characteristics that define the majority of Care Leavers it is clear why they need to be seen as a group with special needs. Many Care Leavers that CLAN support are aged over 70, many Care Leavers who due to their upbringing are unable to read or write, have no familial or social supports, rely on varying types of government support pensions, have no stable housing or are living in public housing, have both physical and mental health ailments and conditions, and on top of all this are struggling through a redress application process and reliving the crimes perpetrated upon them as children. CLAN have a strong belief that there needs to be a greater focus on the special needs of Care Leavers and we are more than willing to provide this training to both the NRS and

churches, charities and state governments who are delivering DPR's. Whether it is ignorance or policy, the recognition of Care Leavers needs to change.

#### **Action Area 5**

CLAN supports all aspects of Action Area 5 to gain continuous feedback and improvement of the DPR process. In particular we think it is a good idea for all churches, charities and state governments to participate in an annual (if not more often) Community of Practice forum to learn more about the people they are delivering DPR's to as well as from each other and what works and doesn't work in the DPR process.

CLAN also agrees with the NRS collating and analysing more applicant feedback. We also feel this feedback needs to be collected at various times during the redress process in order to garner more accurate and reflective feedback. Having the dedicated DPR liaison officer assist in this process would also be helpful in obtaining the feedback.

#### **Action Area 6**

CLAN wholeheartedly agrees that institutions need to be participating in much more frequent reporting. CLAN as a RSS is subjected to frequent, onerous and time consuming reporting on all aspects of what we do as a RSS. How is it possible that with all the reporting RSS are subjected to, institutions only need to provide an annual report? Whilst we understand they are not being funded to provide a service, they are required by legislation to provide a DPR and thus their reporting processes should be strictly and frequently maintained.

CLAN have no preference as to the method in which this data is collected from institutions, simply that it is vital it is collected more frequently. If some organisations are not equipped to report via a portal system as each applicant engages with them, then they should manually submit the same information. We believe statistics should be collected at least monthly to be allow for review and improvement across the year.

CLAN would also recommend that where possible, feedback and data also be collected from Care Leavers and other applicants who have completed their DPR. This paints not just a quantitative picture but also a qualitative one, allowing us to hear from survivors themselves as to whether the process was helpful, useful and completed with respect and dignity.

Furthermore, CLAN has noticed that within our latest RSS funding there has been a greater emphasis on DPR reporting on our end. After reading this consultation paper it is our belief that we have been tasked with collecting and reporting more statistics and data because the information is not funnelling through via institutions as it is meant to. Being a small charity we feel it is unfair that our reporting requirements have increased to compensate for the lack of reporting from the institutions themselves.

#### **Conclusion**

CLAN agrees that a large number of changes and improvements need to made to increase the uptake rate of DPR's as well as the satisfaction of Care Leavers and other applicants with the DPR process. CLAN would like to raise an issue that was not discussed in your consultation paper, that being the privacy and confidentiality of the Part 3 documents which have been shared with churches, charities and state governments. CLAN is of the understanding that all Part 3 documents are meant to be destroyed after the completion of the DPR, however there is no guarantee or evidence that this is occurring. Care Leavers have no idea if their private information has been shared with other third parties such as insurance companies, and many do not understand the consequences of sharing their Part 3 information. CLAN would like some clarification and guarantees as to what becomes of a Care Leavers Part 3 information and who this information has been shared with.

Aside from this, presently CLAN see three major issues with how the NRS has set up the DPR process. Firstly, having the DPR being 'survivor led' has meant that many Care Leavers do not initiate the DPR process. The DPR should be 'survivor focused' and 'survivor supported' but requesting Care Leavers to lead the way in a process that does not make sense and is toward the churches, charities and state governments that perpetrated or caused the abuse committed upon them as children, is a task too large to ask of anyone.

Secondly, the wording and understanding of the term DPR needs to change. The term is not accessible or easily understandable, and if Care Leavers were understood to have diverse needs by the NRS they would have understood why and never implemented the term in the first place. The fact that Care Leavers make up the majority of applicants to the NRS means that the NRS needs to address their needs and create a term in easy English that is understandable for those who have limited education or literacy issues. Once this new term is created, enhancing the messaging and explaining what is involved with a DPR throughout the redress process will assist Care Leavers in understanding and possibly being more likely to take it up. Having a DPR liaison officer as part of the NRS will also help Care Leavers to be able to access someone with knowledge and understanding about what is involved.

Lastly, the largest issue CLAN has seen regarding DPR's are churches, charities, and state governments unwillingness to take part in them. Whilst some churches, charities and state governments have been welcoming and helpful, the majority have created a larger workload for CLAN in follow ups and explanations, and in turn have triggered and retraumatised the Care Leavers we have provided support to. Churches, charities, and state governments are aware of what a DPR is and that it is meant to be survivor focused, however our experience is that it is about ticking a box and still refusing to accept blame for their actions leading to extremely ingenuine apologies. CLAN firmly believe that many of these churches, charities, and state governments require further training in Care Leavers and how their actions can harm the Care Leavers they are dealing with and moreover there needs to be some sort of compliance officer and sanctions for churches, charities and state governments who are not following the framework and are repeatedly causing more harm.

We sincerely hope that the NRS are willing to make and enforce these changes so that more Care Leavers understand what a DPR entails and can access a DPR and feel comfortable about it when they do so. Everyone at the NRS and all the churches, charities and state governments dealing with Care Leavers need to not only be trauma informed but also **Care Leaver informed**.





September 26, 2021

Dear Dear

I am the Regional Superior of the Sisters of Nazareth for Australia and New Zealand and write to assure you that this apology is genuine and sincere.

distribution on behalf of the Sisters of Nazareth, and personally, I apologise for any wrongs we did to you and for any harm we caused. Our role was to do the best for the children in our care and you should not have been sexually abused and humiliated by any Sister. The anxiety and fear of how to protect yourself during this time would have been horrendous. I understand the abuse has affected you all your life as your memories are real for you and you live with them every day.

I have carefully read your sad story of the abuse you received. Nazareth Boys' Home in Sebastopol should have been a place of love, compassion and encouragement for all the children who came into our care. Regrettably, the means of disciplining children at that time meant that Nazareth was instead a place where you felt you lived in fear of being hurt, particularly by one Sister you remember clearly. We now recognise the harm that was done to you.

you are always welcome to visit Nazareth House in Ballarat or Camberwell if or when you are in those areas and meet with the Sisters should a visit be of any assistance in your healing.

While I cannot undo the past, it is my sincere hope that this apology may bring you some comfort and assist you moving forward. Please don't hesitate to make contact should I be able to help further.

again I apologise to you. Thank you for having the courage to share your story.

God bless, with every kind wish.

Sr. Navgard O'Kufu Sr. Margaret O'Kecte Regional Superior

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National Redress Scheme - Direct Personal Response

### Recognition and Apology Process

## Information on the Recognition and Apology Process

What is the Recognition and Apology Process? The Recognition and Apology Process?

Direct Personal Response (DPR) and it is one of the options you can accept as part of opportunity for you to be heard by a representative from the responsible Department(s) either face to face or by letter.

#### How does it work?

When you tick the box on the Redress acceptance form to say you are interested in a Direct Personal Response, you will be provided with the contact details of the Redress Co-ordination Unit in Perth to call or email when you are ready. A contact person from this Redress Co-ordination Unit will work with you to arrange your Direct Personal Response with the responsible Department(s). This contact person will help you prepare for your Direct Personal Response, and will inform the responsible Department(s) on how you would like your Direct Personal Response to happen. When you are ready, the responsible Department(s) will engage in the Direct Personal Response with you. For privacy reasons and to respect your confidentiality, we are not given your contact details so we cannot contact you.

Some of the things that can happen as part of the Recognition and Apology Process

- A face-to-face meeting with a representative from the responsible Department(s).
- A personal letter written by a representative from the responsible Department(s).
- Assistance to get information from your personal files.
- A group response, if you have a group of people from the same institution that want to participate together.
- You might have another idea about something that is meaningful to you. If you do, please talk to your contact person at the Redress Co-ordination Unit about it.

It is always your choice, but some of the things that could happen if you choose a faceto-face meeting are:

- You can tell the representative as much or as little about your experience as you want.
- Have the representative listen to you and apologise for your experience.
- Ask for information about your case.
- Ask the Departmental representative to explain what has changed and what is being done now to keep children safe.

It is important to us that your Recognition and Apology Process is personal to you and authentic.

Can I change my mind?

#### **Appendix 3**

