



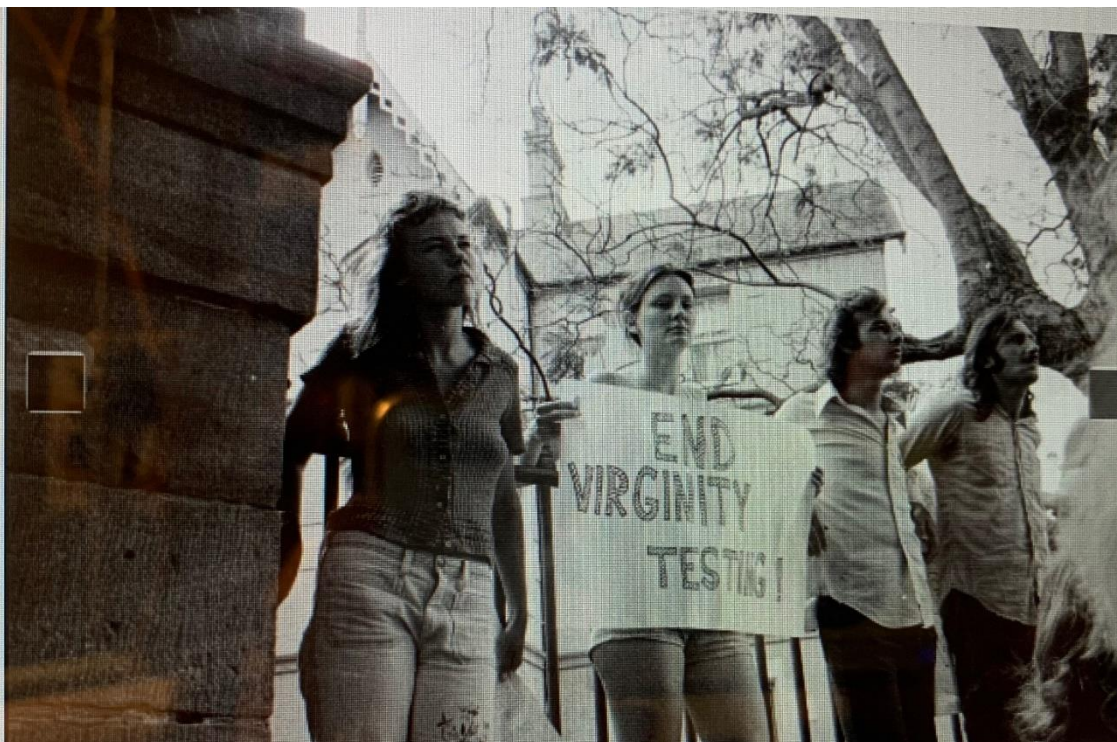
CARE LEAVERS AUSTRALASIA NETWORK

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.

PO Box 164, Georges Hall, NSW, 2198

“Redress is a lottery for Care Leavers”

Submission to the Joint Standing Committee on Implementation of the National Redress Scheme.



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 multiple submissions in the past to both the Joint Select Committee and the Independent Review. Many of the previous issues we have discussed are still relevant and have not been addressed. 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.

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 Inquiry 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.

Terms of Reference

CLAN are extremely disappointed that once again Care Leavers have been left out of the Terms of Reference or acknowledged as a key theme. The focus on the experience of First Nations People and those with a disability is a valid and an important one, but CLAN would argue that Care Leavers should also be included in this category. **There are a multitude of issues presenting as barriers to Care Leavers which are impacting their access to the NRS as well as their ability to disclose their abuse.** Furthermore, it must be mentioned that as a group many Care Leavers are indigenous or have a disability and for many this disability was acquired or a result of their time in care.

Many Care Leavers are also elderly or unwell meaning there is limited time for them to complete a redress form and many are either unaware of the redress scheme or too scared to come forward and take part. Many Care Leavers are also still suffering with the shame and stigma of being sexually abused and the fear of disclosing and not being believed or validated by the redress scheme is a very real one.

CLAN also comes across many Care Leavers who have little idea about what actually constitutes child sexual abuse and minimises the abuse they were subjected to. As a result, CLAN have to ask incredibly specific questions when completing redress forms for Care Leavers to ensure that they are disclosing exactly what happened to them and not a watered down version that they have convinced themselves was 'nothing'.

Other Care Leavers are also concerned about coming forward because of the guilt and complicity that the perpetrator groomed them to feel. Some are worried about retribution from the institution for disclosing or being isolated or shunned by their family and friends.

Unfortunately for many other Care Leavers, their experiences have placed them in a disadvantaged and isolated environment with many having no friends or family and little resources both monetarily and, in the community, to access any help or assistance. A great many Care Leavers suffer from **literacy issues** due to the lack of education that the state governments enabled creating both difficulty and embarrassment with their reading and writing.

Most Care Leavers also suffer with mental health issues, mainly PTSD, depression, and anxiety. Many also struggle with their physical health and wellbeing due to the forced child labour when they were little children or the extreme beatings and torture they were subjected to. As a result many Care Leavers are prematurely blind or deaf or suffer debilitating chronic pain or limitations in their movement.

Care Leavers were set up for failure by the institutions and the state governments who in their treatment of vulnerable and disadvantaged children, ensured that as adults they would struggle in all aspects of life, physically, mentally, economically and socially. As quoted by Catherine Spence, a welfare worker in the 19th century **“There is nothing so costly to the state as a ruined life”**. These are the impacts and consequences routinely created by the system that children were subjected to and had no choice in. Just like those of First Nations people and those living with a disability, Care Leavers had no choice in the treatment they were subjected to and the lives that were created for them by ALL governments of Australia.

Unfortunately, CLAN also is aware that even though we are a funded Redress Support Service and a Find and Connect Service, Government Departments do not refer Care Leavers or make them aware of our service, most likely due to their own ignorance of the services available to Care Leavers. This in turn creates another disadvantage for Care Leavers who are seeking assistance.

It is for ALL of these reasons that Care Leavers need to be considered in the Terms of Reference, their limitations are ever present and provide very real barriers and disadvantages to Care Leavers accessing the NRS and other supports.

Inconsistency

One of the biggest issues CLAN has encountered in our involvement with the NRS is the inconsistency of the Independent Decision Maker's (IDM's) decisions. We believe that in part this is due to the lack of explicit guidance given to IDM's however the whole process still remains a mystery to the support services who are trying to interact and work with the NRS. For example, we are constantly told that only **'extreme circumstances'** are awarded \$150 000 outcome yet there is no definition of extreme circumstances that we have been made aware of which leaves it to the subjective thought process of the IDM. **This results in very few maximum \$150 000 payments**, and as a Care Leaver service who has been privy to the experiences of these Care Leavers for over twenty years, CLAN can safely say that many of the accounts/experiences we hear would easily qualify for the maximum payment and **'extreme circumstances'**.

The assessment process in the NRS is totally lacking transparency and without explicit definitions and guidance is resulting in inconsistent outcomes. Moreover, the idea that only **penetrative abuse** can be considered as extreme circumstances is completely devoid of any trauma informed

principles. Each person's experience is different and some of the more extreme cases don't necessarily involve penetration but can involve ongoing and repeated contact abuse incorporating both physical and psychological abuse and could have occurred up to 100 times, yet because there is no penetration these cases aren't considered 'extreme circumstances'.

As a Redress Support Service (RSS) CLAN are in the unique position of completing forms for Care Leavers and hearing in detail the circumstances surrounding their abuse and the crimes committed against them. As such we are in a prime position to witness the inconsistency of outcomes as we can do a direct comparison of abuse vs outcomes. A current example of this inconsistency is what is termed **State Sanctioned Rape** (Penglase, 2008). This term refers to the act of female state wards being penetrated digitally by a doctor or supposed medical professional to determine the presence of STD's and virginity. These girls were never asked consent, they were not given an explanation as to what was about to happen and they were not supported or comforted during this 'procedure'. As such there was nothing about this experience that was medical and in modern terms would be labelled a crime, such as the case of the Australian women who were forcibly gynecologically examined without explanation at Doha airport in October 2020.

Doctors would also then record their 'findings' in state ward records by placing lines for how many fingers they had inserted:

- I – 1 finger
- II – 2 fingers
- III – 3 fingers.

This also wasn't a routine practice for girls who had parents and came from 'good' homes, only routine and 'accepted' for state wards and repeatedly for those who absconded. It has also been said that this practice was based on a case by case basis, however CLAN have been made aware from numerous sources that **it was in fact a large scale systematic procedure to abuse female children in this way. Brenda Hodge details this systemic practice in her book Walk On (2005), please find an excerpt in Appendix 2.** Since it was an accepted practise to sexually violate these female children and label it a 'medical procedure' the NRS in some cases reject an application based on state sanctioned rape.

However, they do not reject it in all cases, it seems to be a subjective decision by the IDM's as to whose application they approve and award an outcome to and whose is rejected. Seeing the applications (and completing these applications) ourselves we know that there is no difference in circumstances that warrant the rejection of some and approval of others. **Furthermore, for the Australian Government to decide that this sort of routine sexual abuse is acceptable because it was 'what was done back then' is reprehensible. Is the Commonwealth Government really providing redress for sexual abuse and then saying that this sexist and discriminatory practise was okay because it can be disguised as a medical procedure? If it is not acceptable today, then it should be seen and labelled for what it is – penetrative sexual abuse without informed consent.**

CLAN have viewed footage of an interview with a male Dr tasked with carrying out these 'internal examinations' who states that the procedure was medically invalid and ethically unsound. He goes on to say that these girls were subject to a discriminatory, sexist type of law that never would have allowed for males/boys to have their genitalia examined in the same way. He even recognises the emotional impact that this 'procedure' had on these girls and that it was traumatic for them. This interview was conducted in 1973 for an ABC broadcast of "This Day Tonight", and can be viewed on CLAN's twitter account https://twitter.com/CLAN_AU/status/1628024020556709894?s=20.

Whilst this doctor was obviously uncomfortable with this practice and recognised it to be an inhumane way to treat girls and the traumatic nature of carrying this out, not all medical professionals seemed to have the same regard for the girls' wellbeing. Furthermore, if a medical professional who was conducting these examinations can say they were not medically sound and were sexist and discriminatory, how can the NRS still continue to view state sanctioned rape as a medical procedure?

There have been many examples of cases where state sanctioned rape was carried out in a way which makes it clear this was not a routine medical procedure. **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'. There are other cases where girls were called a 'slut', they were slapped, or told they were enjoying it by the male Doctor.**

As such, CLAN urge this Joint Standing Committee to review this issue and make the recommendation that all State Sanctioned Rape Cases be determined to be penetrative child sexual abuse.

It is important that your committee understands the impact that this sort of abuse has on women. For many women who were subjected to this as a child they have become **perpetually frightened of doctors and of having any sort of examination done especially when it comes to reproductive or sexual health.** In many cases this prevents women from accessing routine care and check ups like pap smears or obstetric checks. This can in turn put women and their babies in a great deal of danger. A medical procedure that was carried out as such would not cause this amount of fear and grief no matter how uncomfortable and the fact that CLAN have heard this hundreds of times from various women who were subjected to this treatment shows it was not an irregularity and was not carried out in a way that a typical medical procedure would have been.

Furthermore, when these women are rejected, it denies them of the validity of their experiences and the trauma that it has caused. **The women that CLAN have supported that have been rejected have reported feeling depressed, anxious and suicidal.** This was the case for Lyn who was suicidal when her state sanctioned rape application was originally denied on the basis of it being a medical procedure before she had it reviewed with CLAN's assistance. Please see this link to read an ABC article about Lyn's case: <https://www.abc.net.au/news/2020-08-20/redress-scheme-sexual-abuse-delays-compensation/12574186>

For many Care Leavers one of the reasons they apply to the NRS is to be believed and have a sense of justice being done. When these applications are rejected it immediately tells the women that they are not believed, that their feelings and trauma are not valid and they receive no justice for the abuse that was perpetrated upon them as children that has scarred them forever and that puts their life in danger by refusing to have preventative health checks done.

We have recently had a Care Leaver who was sexually abused in in Bidura, an NSW State Government Home in Glebe, whose application was rejected on the basis of state sanctioned rape being a medical procedure. **You will find her letter to the Prime Minister in Appendix 1.** It is important that you hear in a Care Leaver's own words how this experience has impacted her - not just the abuse itself but the re-traumatisation that the NRS has caused and her being and feeling like a 'Redress Reject'.

Other Relevant Issues

One of the major issues that Care Leavers worry about within the NRS is the review process and CLAN shares this concern. A unique feature of the NRS review process is that the IDM who is reviewing the decision has the ability to reduce an individual's outcome. **When viewing this fact objectively, the ability for the NRS to reduce an outcome if they so wish, almost feels like a thinly veiled threat to Care Leavers (and other applicants) that their outcome could very well be reduced if they decide to go through this process. Having this as a possibility serves as a deterrent for Care Leavers to go through the review process as they don't want to risk the outcome, they have received whether they feel it is unjust or not.** It almost seems that any individual who dares to challenge the decision of an IDM is risking being penalised for questioning their authority.

CLAN believe that the decision of the National Redress Scheme to allow outcome reductions following a review is abhorrent and only traumatises Care Leavers again. It reinforces the authoritarian system that Care Leavers grew up in where if they dared challenge an authority figure they would be punished and penalised. It is once again discouraging Care Leavers from standing up for themselves and questioning a decision maker with fear of possible retribution if they do. For a scheme that is supposed to be redressing sexual abuse and the power dynamics created through this abuse, the NRS is recreating these power dynamics and is presenting as a perpetrator trying to silence their victim. The fact this scheme allows this only proves it is not truly trauma informed or Care Leaver informed.

CLAN helped a male Care Leaver with his application where he was raped consistently for four years by his female carer every time her husband went away with the army. He was also subject to physical abuse over this time period from her as well. This Care Leaver was given an outcome of \$100 000, when it is clear according to the assessment matrix that a case like his should have been awarded the maximum \$150 000. **Since this Care Leaver knew it was possible his outcome could be reduced he was too fearful to lodge a review even though it was obvious he should have been awarded more. This is not an isolated case and CLAN are regularly faced with Care Leavers who are too scared to lodge a review in case their outcome is reduced. This threatening and bullying needs to stop!**

As evidenced in the example above, CLAN believe there is also a bias against men being abused by females as their outcomes always seem to be less, and very few seem to be awarded the maximum. **In another more recent example, a 47 year old Care Leaver who is dying and literally only has weeks to live was only awarded \$50 000 outcome after being raped by two men at a Salvation Army men's Hostel on the Gold Coast.** Redress used the reasoning that they can't find out who is liable for putting him in the institution and therefore have given him a lesser payment! This was one of the worst calls the CEO of CLAN has had to make to inform this Care Leaver of his outcome. In this case Redress has arbitrarily lowered his payment, not because his abuse didn't fit the assessment matrix but due to simply time and a lack of records and information.

This is a prime example of the inconsistency of this redress scheme and its ineptitude. When the NRS began, Care Leavers were told they wouldn't be penalised for a lack of records or information and that is exactly what has been occurring. Does the NRS really expect to find all the documentation they need from 40, 50, 60, 70 years ago and more? **Penalising a dying Care Leaver for documentation that is out of his control is abusing him all over again.**

One of the biggest problems with the NRS is that they create policy on the go and work to either a hidden or subjective criteria that has not been made available or transparent to the greater public or

the Redress Support Services. We have touched on this issue in previous submissions and another example that CLAN can give you is that of a Victorian State Ward who was told he was ineligible for Redress due to his criminal history after waiting for 2 years and 3 months for an answer. This Care Leaver had committed serious crimes and had been sentenced to 8 years in QLD and 8 years in Victorian prisons. CLAN were initially put in touch with this Care Leaver (and others) by the Royal Commission who requested that we support them through the Royal Commission process and provide ongoing counselling and advocacy to them. Six years later CLAN continued to support this Care Leaver through the redress process.

Any applicant who has committed a serious crime needs to have their application reviewed and approved to be eligible for the NRS. **This Care Leaver had his case looked at by both the QLD and Victorian Attorney Generals who supported his Redress application. Unfortunately, the Secretary of the Department of Social Services Ray Griggs had the final say and rejected this Care Leaver's application.** CLAN are bewildered at the fact that two attorney generals could support an application yet the secretary overseeing the scheme meant to be trauma informed and understanding had the ability to shut down his application, diminishing any abuse and crimes committed against this Care Leaver because he had committed crimes himself. There doesn't seem to be any objective criteria to provide whether those who have committed serious crimes are eligible or not, so they aren't left waiting and wondering for years on end to receive a response.

Of course, the Care Leaver was absolutely devastated and below are his words about how it felt to be rejected from the NRS:

"Being rejected felt like someone said, tell me your worst horror story and once they had it, they laughed in my face and walked away. The apology is far more important to me than the money, I want to be recognised, someone to hold my hand and shake it, and apologise for what happened to me. Knowing someone cares enough to recognise me matters."

In reading these words, CLAN would also like to flag the issue that those whose applications are rejected do not get:

- Financial Redress
- Counselling
- An Apology

Therefore there are many who leave the scheme empty handed with worsened mental health issues and re-traumatisation from the whole process. What a cruel and humiliating policy! This policy needs instant amending.

Can the NRS not see that they and we (as a Redress Support Service) are made complicit in harming Care Leavers who are being encouraged to apply, only to be rejected with no outcome or consolation whatsoever? For the majority of those rejected it also isn't because they weren't sexually abused it is for reasons such as the sexual abuse was state sanctioned, adequate records can't be found to prove they were in 'care', their 'care' arrangements don't fall under the scope of the redress scheme etc.

The NRS is happy to reject these applications and leave them floundering with no further assistance or access to further information or services. CLAN believe that this needs to be rectified – access to further counselling should be organised whether it is through a Redress Support service or a Victims of Crime Scheme, and access to a DPR should also be given. For Care Leavers such as those with state sanctioned rape cases – the least the state government can do is apologise for the routine

sexual abuse of female children. **CLAN believes there are further options to help those whom the NRS deems ineligible or whose applications are rejected to not cause further trauma.**

CLAN also wonder what the process is in assigning which IDM's to which applications? Is this a random assignment or are IDM's given applications relevant to them and their experience?

Moreover, CLAN feel that there could be a case made for female IDM's to be reviewing female applicants and male IDM's reviewing male applicants. Whilst we believe all IDM's would do their best to review all applications surely they have more understanding and ability to empathise with their same sex?

Lastly, CLAN wants to reiterate that Care Leavers are scared to go through the application process. They are scared and ashamed about disclosing all of their abuse in the minute detail that the NRS requires from them, and they are scared they won't be believed or understood or even validated. This has certainly proved to be the case with the state sanctioned rape cases. CLAN constantly deal with Care Leavers who fail to disclose the entirety of their abuse because they are ashamed and fearful about doing so. Many Care Leavers find themselves adding in additional information after they have submitted their application, once they have built up more trust and rapport with their counsellor, for some they don't disclose until after they have received their outcome when it is too late. It must be understood, whatever the circumstances, that the NRS is an awfully difficult process to go through with an application that requires every explicit detail of their abuse. **It seems horribly hypocritical that the NRS expects all this detail from the applicant and yet they deal in vague ambiguities about what they will and won't accept as abuse, in what circumstances and that it is dependent on the IDM who assesses the application.**

CLAN also believe it is important to mention that despite repeat offerings of training, in the four years the NRS has been running, the IDM's still have had no Care Leaver training and are unaware of the lived experience of growing up and being abused in Orphanages, Missions, Foster Care and other Institutions. For a scheme that is priding itself in dealing with traumatised individuals it is incredibly arrogant and uninformed to refuse training that will help understand the experiences of those they are dealing with. This is just not good enough.

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 submissions are still valid, there are many new issues that have been brought to the fore in the last few months also. The way the NRS operates is an absolutely awful way to treat Australians who were abused as children who had no one to advocate or protect them. CLAN unfortunately had high hopes from the Labor Party who spoke about changing the way the NRS was running. CLAN and the many Care Leavers around Australia were looking for empathy and love from Labor only to find out they were not serious about changing anything.

Honestly, CLAN are tired of writing submissions with the same information knowing that no substantial or genuine changes will be made. CLAN have been advocating for redress issues since the first Joint Standing Committee's Inquiry into the oversight of the implementation of redress related recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse initiated by Derryn Hinch, and we have written to every Inquiry thereafter.

We truly hope that this inquiry can see the many issues that Care Leavers and support services like CLAN are up against. 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'.

The sheer amount of inconsistencies that occur leaves us with the impression that redress is indeed a lottery for Care Leavers. 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 Inquiry can achieve some of the changes we have repeatedly requested over the last four years.



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



Appendix 1 – Letter from CLAN member to Prime Minister regarding her state sanctioned rape and being rejected from the NRS.

To The Prime Minister of all Australians,

Mr Anthony Albanese,

It is with much respect and humility I write to you as I see no other avenue of assistance.

My name is [REDACTED]. I am 69 years old. My maiden name was [REDACTED]
[REDACTED]

I was made a N.S.W. State ward in October 1966 I had been charged with truancy. I don't deny missing a lot of school due to my childhood circumstances, but effectively, I was institutionalised for being poor.

I was a frightened 13-year-old little girl, removed from my family. It was traumatising being sent to Bidura, a N.S.W. Government Home, in Glebe Point Rd. Glebe in Sydney. I was extremely afraid, being transported to a city I had never been to before. Still, to this day, have trouble sleeping with reoccurring nightmares and feel the trauma of that time. Shortly after arriving at Bidura State Government Girls Home, I was sent to a room upstairs where two strangers, a man and woman were waiting. The man asked me a lot of questions. The lady didn't speak.

I was just a little girl with no idea what was happening. I was very scared and confused. I was told to take my underwear off; get on the table and told I was a Slut repeatedly. I didn't know what a Slut was. They tied my legs down and I was raped both digitally and with a metal object. I was terrified and barely able to move with fear of this psychologically and physically invasive action.

As a result of my State Sanctioned Rape, I have severe problems attending Gynaecological examinations, Pap smears etc. I have a pathological fear of all forms of internal examination without my husband being present. My husband and I have two children. I was too frightened of the medical examinations to register at the hospital, and in both cases I didn't, until approximately two weeks before their birth.

My husband and I had an unsettled life due to his twenty years' service in The Australian Army. We moved around quite a bit, and I had lost contact with most friends from my childhood. I was only vaguely aware of the Royal Commission into mistreatment of children in Care, announced by P.M. Gillard in November 2012, or the results announced in Dec 2017. I admit the anxiety at having to relieve my sexual assault was an overbearing trauma I didn't want to face. I have suffered from depression since I was a teenager and try to avoid mental conflict in any way possible.

I was encouraged to apply for Redress when I contacted Care Leavers Australasia Network, (C.L.A.N.) in 2021 and lodged my application in May 2022. All members of C.L.A.N., particularly Leonie Sheedy, have been extremely supportive with their help and understanding of the trauma I suffered as a little girl.

My application has been refused on the grounds my State Sanctioned Rape, has been considered a medical examination. I feel totally devastated and discriminated against. Other women in the same situation as I was placed, at Bidura, have been granted Redress. It's very distressing for me. I feel ripped apart in the same way I felt when I was a little girl, taken from my mother, a few short years after my father committed suicide in March 1959. The Labour Government has always respected the

rights and equality of all Australians without discrimination. I can't help but feel retraumatized and assaulted a second time.

Redress means different things to different people. To me it means belief and recognition of the trauma and suffering I endured as an innocent little girl.

Please reconsider my application for Redress and help restore my mental health, well-being, self-respect and my faith in humanity.

I Thank you sincerely for your time taken reading this letter.

Regards

A solid black rectangular redaction box covering the signature area.

Appendix 2 – excerpt from Walk On: The Remarkable True Story of the Last Person Sentenced to Death in Australia, Brenda Hodge, 2005.

“One morning the door opened and I was told to get ready for a trip into town. Ten or twelve of us went into a departmental bus, supervised by Winlaton officers. We were taken to a large public hospital for another ‘internal’, an examination for venereal disease and pregnancy. I had already suffered one of these penetrating experiences on my re-admission, and I resented having to undergo another.”

One morning the door opened and I was told to get ready for a trip into town. Ten or twelve of us went in a departmental bus, supervised by Winlaton officers. We were taken to a large public hospital for another ‘internal’, an examination for venereal disease and pregnancy. I had already suffered one of these penetrating experiences on my re-admission, and I resented having to undergo another. There were two of us in the surgery with just one supervising officer when I saw a large pair of scissors on a tray by my hand. Out of character and on impulse I moved in front of the tray, took the scissors, and hid them in the pocket of my fully-flounced Winlaton skirt. We weren’t searched either before leaving the hospital or on our return to Winlaton, and I was soon back in the cell with my