



## **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 Causes Distress for WA Care Leavers**



*Submission to the Community Development and Justice Standing Committee : Inquiry into the options available to survivors of institutional child sexual abuse in Western Australia who are seeking justice.*

*Submitted 1<sup>st</sup> September 2023*

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.

We thank you for giving CLAN the opportunity to share our experiences regarding options for Western Australian Care Leavers seeking justice. As mentioned above, CLAN are a support and advocacy organisation. CLAN were a support service for Redress WA and are currently also a DSS funded Redress Support Service, placing CLAN in a unique position to witness the experiences of Care Leavers and their interactions with both Redress WA and the National Redress Scheme (NRS) first hand. This experience has thus far taught us that the NRS is a deeply flawed and inconsistent scheme which is not delivering the benefits, including justice and validation, that it was supposed to be.

It is unfortunate that the Redress WA scheme in operation many years ago was not a sufficient or adequate option for those WA Care Leavers seeking justice. Not only was the original maximum payment cut from \$80 000 to \$45 000 but the levels of payment and the assessment of applications within these levels was disgraceful and an insult to Care Leavers applying. Moreover the scheme was only open for approximately 3 years meaning many Care Leavers missed out. CLAN still receive calls from Western Australian Care Leavers who are not eligible for the National Redress Scheme but who missed out on Redress WA leaving them with little options to pursue justice.

Conversely, as CLAN are not experts in the legal field nor do we provide any sort of legal services, we cannot comment as to the adequacy of the Civil Liability Legislation Amendment Act (Child Sexual Abuse Actions) Act 2018 (the Act). With regard to this, CLAN can only provide some generalised feedback from WA Care Leavers who have either been through civil litigation or who attempted to go through civil litigation.

CLAN are also of the belief that more support and service provision can be given and directed to support Western Australian Care Leavers. Justice can take many forms, not simply through civil litigation, redress or some form of compensation. Recognising and acknowledging the life long impacts a childhood in 'care' has on Care Leavers can translate into further service provision in many areas to assist Care Leavers to attain justice and validation of their experiences.

## **Civil Litigation**

As mentioned previously CLAN cannot offer detailed information regarding Care Leavers and the particular Act mentioned in your terms of reference. Rather CLAN can offer some generalised feedback from Care Leavers in their engagement with the civil litigation system.

In general, the majority of Care Leavers CLAN supports tend to avoid the civil litigation system unless they have exhausted all other options. This is generally due to the adversarial nature of the civil system combined with the added difficulties of historical cases. Many of the Care Leavers CLAN support are aged between 50 and 100 years old, meaning the cases are considered historical and

become much more difficult to try. Over the years and thanks to the Royal Commission into Institutional Responses to Child Sexual Abuse some of the legal impediments to having these cases heard have been removed or altered such as limitation periods, Proper Defendants, associations being unincorporated and establishing liability. Many of these past barriers have been addressed to make civil litigation more accessible to Care Leavers.

Nevertheless, there are many other factors out of the control of the legal system such as the accessibility or availability of records – some of which are non-existent thanks to poor record keeping practices. Similarly, evidence pertaining to Care Leavers from decades ago and specific to the crimes committed against them is minimal if any. Furthermore, many of the people who may have been witnesses, or even the abusers themselves have likely died providing another hurdle in establishing the facts of the case. Moreover, many older Care Leavers cannot name their perpetrators or may not have ever known the identity of their abuser.

Additionally, for many Care Leavers, having to go through the civil litigation process is in itself retraumatising. The act of recounting their experiences to lawyers in specific detail, to then having to be questioned about these experiences is emotionally harrowing. For many they are also asked to see a psychiatrist for an assessment which then involves recounting their experience once again to another professional who questions them and in our experience the feedback from the majority of Care Leavers who go through this process is that the psychiatrists who provide an assessment only serve to exacerbate their trauma and other preexisting mental health conditions.

For those Care Leavers who have been cross examined, the process is horrific, and many come away feeling defeated by the civil litigation system. We have also seen lawyers blame other things in Care Leavers lives for the pain and suffering caused by their abuse in an attempt to lessen their liability. Understandably, many Care Leavers who were abused went on to experience other traumatic and adverse life events which is then used by the defendant to lessen their liability and causation. A prime example of this was a case involving the Christian Brothers and a Care Leaver/Child Migrant John Lawrence. John Lawrence was raped numerous times by a Christian Brother while in ‘care’ at Clontarf and Castledare Boys Homes in the 1950’s. **The Christian Brothers who ended up being ordered to pay 1.3 million to John Lawrence appealed the decision and actually said that his projected loss of earnings were not as much as they were forecasted to be because he came from nothing and he wouldn’t have amounted to much anyway** <https://www.abc.net.au/news/2020-03-11/court-orders-record-payment-for-christian-brothers-child-abuse/12046000> . Unfortunately, the disgusting nature of these comments are not uncommon from past providers of ‘care’. Please see the link to John’s case here and a copy in Appendix 3. <https://www.abc.net.au/news/2021-05-06/christian-brothers-forced-to-increase-payout-to-abuse-survivor/100121008>

Another issue that seems to have arisen since the establishment of the Royal Commission is the number of legal professionals trying to engage Care Leavers as clients contrary to their best interests. Many of these Care Leavers were left with minimal payments after legal fees were taken away also.

We often see those Care Leavers going through civil litigation have their mental health deteriorate rapidly whilst this process is ongoing. The civil litigation process is also a long one with many Care Leavers waiting for at least a year if not a few for any sort of outcome. Care Leavers have heard enough of these sorts of experiences to understand that Civil Litigation is not an easy road to go

down. Despite some of the legal barriers being removed, the very real difficulties presented by the very nature of an adversarial court system means that civil litigation is not an easy road.

## **National Redress Scheme**

With regards to the NRS, it is CLAN's experience through our work supporting Care Leavers that there are a multitude of issues with the scheme creating inconsistent and unjust outcomes. We will outline below the main factors we believe to be affecting WA Care Leavers who have or who are wanting to access the scheme.

### ***Accessibility***

Firstly, a huge issue is that not all institutions have opted in to the NRS leaving a large portion of Care Leavers unable to have their redress application progressed through the scheme. This means that for many, seeking justice is not possible if their institution has not joined the scheme or the particular state government has not become funder of last resort. This leaves these Care Leavers with little options but to go down the civil litigation route if they want monetary compensation.

Secondly, the accessibility of the scheme to WA Care Leavers is in question with many unable or unwilling to access the scheme for a variety of reasons. **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 such as:**

- The NRS not being widely advertised. There needs to be greater information dissemination on mainstream media. Most Care Leavers who have approached CLAN for assistance have heard about redress via word of mouth not through advertising. We also believe the WA Department of Communities should be proactively disseminating information to Care Leavers and their families.
- Many Care Leavers are 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.
- 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.
- 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.

### ***Inconsistency***

Another issue CLAN is finding many Care Leavers have experienced when accessing the NRS is the level of inconsistency in their decisions. This leaves many Care Leavers feeling upset, angry, unseen and ignored, a far cry from the justice they are seeking. Some of the major inconsistencies we have experienced thus far from the NRS are:

- **Creating policy on the go and then applying it in an inconsistent manner.** A prime example of this is the NRS excluding 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. We have found out in the last year or two 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. In fact more recently, CLAN helped another Care Leaver who is currently in Palliative Care who was abused in a similar situation complete a redress application and she was granted an outcome of \$100 000. 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 other 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 (rightly) allowed.**
- **The assessment process in the NRS is totally lacking transparency and without explicit definitions and guidance is resulting in inconsistent outcomes.** 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. Moreover, the idea that only **penetrative abuse** can be considered as extreme circumstances is completely devoid of any trauma informed principles.
- **Another issue which is the cause of major inconsistencies lately is that of 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, a Care Leaver who resides in WA, 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. CLAN are in fact aware and have assisted multiple WA Care Leavers who were the victims of State Sanctioned Rape in state institutions such as Longmore.

**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](https://twitter.com/CLAN_AU/status/1628024020556709894?s=20).

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.**

Another more recent application CLAN assisted with was also denied for a NSW Care Leaver, however it was obvious from her treatment that this was not a 'routine medical procedure'. The male who carried out this abuse called this Care Leaver who was 13 at the time, a slut and used both his fingers and a metal instrument to penetrate her. The 'examination' was so violent that this Care Leaver had blood running down the sides of her legs. Please find her story here and in Appendix 2 <https://www.abc.net.au/news/2023-08-29/13-yo-state-ward-virginity-test-victim-denied-national-redress/102783266>.

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**



- Any applicant who has committed a serious crime needs to have their application reviewed and approved to be eligible for the NRS. **One particular 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. More recently however CLAN assisted another Care Leaver who had committed serious crimes submit his application for redress and although it was a long and stressful wait to find out whether he was eligible, his application was successful and can now proceed through the NRS. Again, whilst we are glad this Care Leaver achieved a positive outcome 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.
- Excluding private placements in foster care arrangements. CLAN assisted a Western Australian Care Leaver to submit her redress application who had been sexually abused in foster care. **However, because she wasn't placed there by the WA Government, they have refused to accept liability for her abuse through the NRS. This is despite CLAN finding evidence in her state ward records stating that the WA government knew about her being in 'foster care' and being abused and kept her in this placement and did nothing to remove her from harm.** This particular Care Leaver also had a [REDACTED] who committed suicide in [REDACTED] WA at the age of [REDACTED] and she is unable to seek justice for either one of them. The fact the WA Government is so easily able to deny liability of a child in 'care' despite being aware of a situation and not intervening undeniably proves that the NRS is a farce.

### ***Records/Evidence***

Another issue which has become more common over the course of the NRS is their reliance on records to provide 'evidence' for Care Leavers. 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.

A recent example of this issue with records is **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. The Care Leaver commented **"is that all I get for being raped by two men?"**. CLAN was able to get a copy of his records and find evidence that Child Protection had signed the paperwork and mentioned the child regarding this placement. CLAN filed for a revocation but **sadly this Care Leaver died before finding out his outcome had been increased to 100K.** 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. However considering CLAN was able to find this information after looking hard enough it raises questions as to the processes of fact finding and just how hard the NRS and IDM's are looking. In this particular case a Care Leaver died feeling no justice had been done.

### ***Lack of support for those deemed ineligible***

CLAN also believe that there is a lack of organised support for those Care Leavers it deems ineligible. 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.**

**In the words of an individual who was rejected because of his criminal history, "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.

### ***Indexing***

CLAN have also taken issue with the NRS and their use of indexing on prior payments including WA Redress payments. This has meant that a payment that has previously been paid to a person by an institution for the abuse may be deducted from the amount of redress payment a person can receive. The Scheme is required to inflate the relevant prior payment using a calculation. This calculation accounts for the number of full years since the person received the payment to the date the application was submitted to the Scheme. This was changed in September 2021 where prior to this Care Leavers were indexed to when they received an outcome which meant the delays in the NRS process allowed the NRS to pay them less.

WA Care Leavers are aggrieved that their paltry payments are now being taxed and they feel penalised due to getting a prior payment at all. CLAN have heard from many WA Care Leavers that they are hesitant to apply to the NRS because of the indexing. The act of indexing these payments is not Care Leaver focused at all! **It is also of note that whilst they are inflating prior payments they are not accounting for current inflation of the NRS redress payments which if recalculated today the maximum payment of \$150 000 would equal approximately \$170 000.**

### ***State Wards between the ages of 18 and 21***

CLAN would also like to raise the issue that 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 are ineligible for redress. 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'. As an example of this a Care Leaver was placed in Marillac House, a home for mentally retarded children in Brighton, Victoria. She turned 18 in December. Two months later she was raped, yet she will not be given Redress as she had turned 18. And yet, the government recommended that her wardship be extended until she was 21. The policies of the time believed that children were just that until the age of 21, and therefore this ignored group should be acknowledged in the NRS.

### ***Application Form***

Additionally, CLAN has found that as time has gone on more and more Care Leavers have had difficulties with the application form. The form is too long and does not make clear the type of information that is 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.

### ***Low Payments***

Finally, just as with Redress WA, the low payments of the NRS are not actually adequate enough to properly compensate Care Leavers for the abuse they received in institutional 'care'. The majority of applicants do not receive the top tier of payment for many of the reasons we have already noted, not because they do not deserve it but because of the arbitrary process and assessments of IDM's and the NRS. For many receiving a low payment actually does more harm than good when trying to address their need for justice. As mentioned earlier, receiving a less than ideal outcome leaves Care Leavers feeling unseen and unheard, their experiences are ignored and the validation and acknowledgement they are seeking never happens.

### ***Aged Care and asset testing***

We have also recently been made aware of the fact that NRS payments are counted towards a Care Leaver's total assets when being assessed for Aged Care placements and services. **One of our WA CLAN members came across this issue when he undertook the steps to place his partner into a Nursing Home due to dementia. This member had received a redress payment and now this payment has been used to determine the value of their assets for his partner to be placed in Aged Care! In his own words "my redress payment has been assessed into the costs and I asked if it could be taken out first but Centrelink said No and I'm so upset about it"**. CLAN and this WA Care Leaver have both asked for an explanation and review of this policy.

The fact that Care Leavers could on the one hand be given a token payment acknowledging the abuse that was perpetrated upon them and then have this payment used against them and in essence possibly used to pay some of the same abusive providers of 'care' when in an aged care facility is appalling. This money, as a redress payment should be treated entirely differently to any other compensation or asset used by the government to determine payments. This is not justice, this is just a cruel twist once again reinforcing to Care Leavers that the government does not actually care about them.

Overall the NRS is not a good alternative to the civil litigation route either, meaning Care Leavers are currently in a position where if they want monetary compensation they have to choose from too bad options. These processes are meant to be assisting Care Leavers to seek and attain justice and instead they are simply harming and retraumatising Care Leavers.



## **Other Options to Provide Justice**

CLAN believes that the Western Australian Government can look at other options for Care Leavers seeking justice in terms of service provision. There are many other fundamental needs of Care Leavers that need addressing aside from seeking a monetary payment. One of these fundamental needs of Care Leavers is knowing their identities and their histories all contained within the records which the Government and other institutions keep.

### ***Records/Redactions***

For many, obtaining their state ward file is a difficult process involving long waits and complicated paperwork. **Western Australia has long been one of the only states to require Care Leavers to specify what documents/records information they actually want without giving them an option to release their whole state ward file.** When a Care Leaver is seeking information from their childhood because they are looking for answers how would they know what information to ask for? This has long been a difficulty with Western Australia's treatment of state ward records.

Furthermore, just as every other state has done, when a Care Leaver receives these records they are almost always heavily redacted. **The WA government also seems to be redacting more information recently than it has in the past.** This has been witnessed first hand by CLAN. As mentioned prior, the Care Leaver who was denied redress because the WA government would not accept liability for her abuse, had previously applied for state ward records with her sister over two decades ago. As her sister lived interstate and was holding the records she asked for CLAN to apply for another copy on her behalf. **The copy we received was heavily redacted compared to the copy her sister had in her possession. When compared, many more pages and not as many redactions had been released earlier.**

Furthermore, CLAN take issue with the current 'Access to Information'

<https://www.wa.gov.au/system/files/2022-04/Access-to-Information-Flowchart.pdf> (Appendix 1 attached) messaging developed in conjunction with CREATE foundation and 'young people with an out of home care experience' to explain the different options for Care Leavers to access files. **Not only is it unnecessarily complicated and confusing, it is obvious that the focus in WA is on younger Care Leavers and older Care Leavers as a group have been ignored once again.** The majority of this information does not relate to older Care Leavers who don't have a 'child history folder' and who are wanting to find clues to their identity in their state ward files. **Care Leavers from generations pre-dating 'child history folders' do not have information about themselves or their families readily available. Their only option is rifling through old files to hopefully get some answers to lifelong questions.** However, the current protocol the WA government adopts with releasing files to ALL Care Leavers is one of **bureaucratic red tape and cost cutting** in releasing as little as possible. **There seems to be no focus or separate information for older Care Leavers who have even less information about their identities and histories due to the protocols of the era.**

How is it the case that **the WA government is going backwards in its release of information** and being Care Leaver and trauma informed? **This is a person's own private information, yet someone else gets to decide what they can and cannot read about themselves?** Similarly, churches, charities and other institutions all either redact information or provide very little records concerning Care Leavers. CLAN believe all institutions whether government or non-government should follow the same protocol when releasing information to Care Leavers and release their full unredacted files. **Being provided with complete and unredacted records is one way of addressing the injustices perpetrated upon Care Leavers in the last century. Not only is it a desire for Care Leavers to**

understand their family history and their past but it is an individual's human right to have an identity! By not providing Care Leavers with full and unredacted records the Western Australian Government is in fact contravening conventions guaranteeing individuals the right to an identity which is established in childhood.



### ***Counselling and Brokerage***

Other issues which need to be addressed are services such as counselling and brokerage for Care Leavers. Giving WA Care Leavers access to vital services to address their needs is also necessary and complementary to monetary redress. Care Leavers who suffer from Complex Post Traumatic Stress Disorder (CPTSD) need long term counselling and support. **The short term counselling provided through Mental Health Care Plans does not suffice and the majority of Care Leavers cannot afford the fees to see a mental health professional privately.** Services like CLAN are vital to the wellbeing of Care Leavers as we have the capacity to provide free counselling as well as a host of other services. CLAN can also operate as a brokerage service, organising brokerage funds for a variety of health and allied health services like dental, optometry, physiotherapy, specialist fees, medication etc. These are all ongoing long term needs of Care Leavers and for many these are issues created via abuse and criminal acts perpetrated upon them as children. **A redress payment would never actually cover the true cost of a childhood in 'care'. Currently, CLAN only receive \$15 000/year funding from the WA Government (only for the past two years) which does not even come close to adequately covering the costs of the services provided to Western Australian Care Leavers.**

### ***Government Services and Policies***

Lastly, there needs to be a greater understand and focus on assisting Care Leavers at a broader level for issues such as housing, health, Centrelink and Medicare. Whilst some of these are out of the WA governments jurisdiction having individual state governments campaigning for change adds weight to the argument that Care Leavers need more help than they are currently receiving from government services. Care Leavers should be given priority access to Housing and should be treated as a special needs group within the state health and Medicare systems in accessing and paying for health and allied health services.

### **Conclusion**

The current options for Care Leavers seeking justice in WA are limited. There is no good option that isn't going to retraumatise and cause distress to Care Leavers at this present time. Both civil litigation and the National Redress Scheme have a multitude of limitations in addressing Care Leaver needs and despite the NRS purporting to be trauma informed, neither option is trauma informed let alone Care Leaver informed. There are options for assisting Care Leavers in other areas who are seeking justice aside from monetary payments and these need to be seriously considered and incorporated in to current policy.

Care Leavers have no trust in Governments, Churches and Charities due to their horrific experiences in 'care' as well as the lack of assistance and help they have received thereafter. Thus far, older Care Leavers have been neglected and ignored from both Liberal and Labour Governments in WA. We urge you to acknowledge Care Leavers and provide them with the justice they are yet to receive in Western Australia.