



Care Leavers Australia Network

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Submission to the Department of Justice, Victoria:

Reviewing the judicial appointments process in Victoria

Care Leavers Australia Network (CLAN) would like to take this opportunity to comment on the judicial appointments process in Victoria, whilst also informing the justice department about a special needs group whom anyone appointed to judicial office should be aware of.

Care Leavers Australia Network (CLAN) is a national support and advocacy network for the 500 000 plus Australians who grew up in the 600 plus orphanages, institutions and children's homes Australia once had. Individuals who grew up in 'care' still carry the burden of unresolved issues from their past and suffer through the shame and stigma associated with their experiences. Many care leavers left the system with little preparation for adulthood and parenthood and carry the scars of emotional, physical and sexual abuse. Being raised without a family has lifelong effects and therefore requires lifelong support services which CLAN aims to deliver.

In November 2009, the former Prime Minister Kevin Rudd and the former Opposition Leader Malcolm Turnbull apologised to those who were raised in care in Australia. Not only were care leavers pain and suffering acknowledged but they were identified as a special needs group in Australia. *Forgotten Australians*, the 2004 report of the Senate Inquiry into Children in Institutional Care described some of the long term effects of care as the following:

- lack of trust and security – a fundamental, ongoing issue
- lack of interpersonal and life skills that are acquired through normal family life
- low self-esteem and lack of confidence, often leading to difficulties obtaining, and retaining, employment
- a lifelong inability, for many, to initiate and maintain stable, loving relationships.
- Depression, from mild to severe clinical depression
- Post traumatic stress disorder
- fear, anger, shame and guilt
- physical and mental health problems often directly associated with beatings and lack of health care as a child, and with extended psychological abuse in childhood
- obsessiveness, social anxieties, social phobias and recurring nightmares
- substance addiction developed in an attempt to block out the pain of the past.
- an abnormally high risk of suicide
- lack of social capital to cushion adversity

As mentioned in section 2.2 of the Discussion Paper (Victorian Government Department of Justice) the selection criteria includes *awareness of issues of gender, sexuality, disability and cultural and linguistic difference*. However, it is of the utmost importance that those appointed to judicial office are also aware of other special needs groups and are alerted to the issues associated with these groups. In particular it is of paramount importance that judicial officers are made aware of the special needs groups who have a higher chance of appearing in the legal system – of which care leavers are part of. A recent survey conducted by CLAN in 2010 saw 15.6% of respondents as answering that they have spent time in gaol, with a further 6% who have had their children or grandchildren spend time in gaol. Furthermore of those that did respond three of our members are currently in gaol. However only 50% of CLAN

members responded, most likely due to the low levels of literacy among care leavers (most care leavers never made it to year 10, and some never made it to high school).

It is vital that those in the judicial system are aware of the country's welfare history and how the legal and welfare system has changed since many care leavers were last associated with it. Judicial officers need to understand the expectations and memories that many care leavers would have regarding the legal system – all being negative and contributing to an adverse reaction which may include an individual being triggered from the situation. If judicial officers are unaware of special needs groups like care leavers, then care leavers behaviour and actions may be widely misinterpreted.

It is also necessary for those appointed as a judicial officer to understand that care leavers as a whole feel let down by the legal system and the government. Not only were care leavers let down as children when the legal system placed them in institutions and foster care where they were mistreated, but the legal system and government have failed to rectify these mistakes both through the vast limitations of various Victims of Crime Compensation schemes as well as the paucity of funds directed towards redress and support services by the government. **Furthermore care leavers are very disappointed and angry/let down at the legal system which has disallowed them the opportunity to bring the perpetrators of the crimes against them to justice.** This has in turn prohibited care leavers from obtaining the healing and possible closure they desperately need and want.

Due to these circumstances many care leavers are extremely disillusioned with the legal system and are unable to obtain the justice they seek. It is important that judicial officers realise the impact the current laws and schemes have on groups like care leavers and how this may contribute to the reasons care leavers often appear in the legal system.

Furthermore CLAN would like to make the judicial system aware that there are support groups and networks in society to help care leavers and gaol is not the only option. For example last month CLAN supported a member in court after she had been caught shoplifting and was a serial recidivist. **This member was abandoned at the age of four and her name on the first day in the orphanage was changed to the number 40.** She herself then abandoned her own daughter at age four and once she hit the age of forty she began offending. Through CLAN's presence, the judge was made aware of this member's status as a care leaver and the types of things she had been through which caused her to shoplift as well as the existence of the Senate Inquiry Report. As a result of CLAN's support the presiding judicial officer gave the member an 18 month suspended sentence and encouraged her to use the support around her to stop shoplifting. If CLAN had not been there for this member in this instance she would have been given a 10 month gaol sentence.

Lastly, CLAN believes that each and every judicial officer appointed to Victoria's legal system should undergo an education and awareness training program so that they are abundantly aware of each and every special needs group and the issues that they may be faced with as officers of the court. With regards to this point, CLAN would be happy to

provide a training and information session about the special needs of care leavers and their unique experiences that may lead them to make contact with the judicial system.

Furthermore CLAN recommends that those involved in the legal system read the **Senate Inquiry – Forgotten Australians – A report on Australians who experienced Institutional or Out of Home Care as children**, and also **Orphans of the Living** by **Joanna Penglase OAM**, in order to get an understanding of what care leavers went through and the effects this has had on their lives. CLAN would also like to encourage you to watch a documentary that will be airing on 16th November 2010 on SBS concerning the experiences of care leavers.

CLAN would like to thank you for the opportunity to comment on the judicial appointments process in Victoria and in doing so to shed some light on a highly disadvantaged and largely ignored group of Australians. Enclosed with the submission is also an old newsletter regarding the Federal apology and a CLAN flyer/membership form.