



## **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.**

Submission to the New South Wales State Government, Justice Sentencing Council, in response to the external consultation paper:

'Victims' Involvement in Sentencing'

CLAN - Care Leavers Australasia Network is a national, independent, peak membership body which represents and advocates for those who were raised in Australia's and New Zealand's Orphanages, Children's Homes, other Institutions and Foster Care. There were more than 500 000 children in Australia who grew up in 900 plus institutions. CLAN's main objective is to assist and support Care Leavers and their families through the wide variety of work we do including, but not limited to, advocacy for a National Redress Scheme, counselling, casework, records searching and publishing Care Leaver's stories.

CLAN would like to thank the New South Wales State Government for giving us the opportunity to provide our input on your current discussion paper. CLAN does not have legal expertise in the area of discussion presented in this consultation paper, however we have a vested interest in Care Leavers role in the sentencing of their perpetrators. As such, we would like to express our support and emphasize the importance of the proposed view of Victim Impact Statements.

CLAN has worked closely with many victims of abuse and crimes as a result of the child welfare system. We are extremely supportive of the idea that victims are able to express to the court the physical, sexual, psychological/emotional and financial harm that they have been subjected to as a result of an offence. For many years, Care Leavers especially, have been voiceless and unrecognised in expressing the abuse they suffered. For those who have been involved in legal proceedings, and felt victimised, they may be given a sense of empowerment, justice and closure if they are able to provide a Victim Impact Statement. Therefore, it is imperative that Care Leavers and other victims of crimes can have an impact on what reasonable punishment is served to the offender.

CLAN is of the belief that Victims Impact Statements serve more than one purpose to the victim. It may serve as a therapeutic tool and enable them to feel validated if they are a part of the process in sentencing their offender. They feel less victimised if they are able to express the severity of how the crime has affected them, in the hope that a fair sentencing will be acquired as a result.

Victims need to be considered in the sentencing and outcomes. As stated in the consultation paper, Victim Impact Statements have proven in research that they enhance sentencing, and at times can contain additional information not heard in court. In CLAN's circumstance, we feel that Care Leavers have just as much of a right to plead their case as the offender. These impact statements can assist in finding justice for the victim, by aiding the court to completely understand the consequences a crime has had. If the court is aware of the effect had on the victim, it is more likely a fair decision will be made.

It is important for Care Leavers, especially given their silence for many years, they are finally being heard. If an impact statement is provided, the Care Leaver will feel like more than just a witness in the court. By providing their own account of the offence and how it has damaged them, it will increase their level of satisfaction in the justice system and allow them a sense of closure, despite the outcome.

Whilst CLAN agrees with the idea that a statement can be provided by primary and family victims, we see a substantial gap. For many Care Leavers, close relatives have lived both vicariously and primarily through their trauma. We feel it is vital that a Family Victim Statement is not just limited to include the immediate family members due to the death of the victim. We understand the Family Statement can be the voice for the deceased victim and the direct impact on family, but we also feel the family should have the right to provide a statement, alongside a Primary Victim statement when the victim is still alive. Care Leavers have often expressed the emotional toll their abusive childhood has had on their close relatives, particularly immediate family including spouses/partners and children. The Family Victim statement could add another dimension on how the offence has severely affected the individual and the people closely surrounding them. This will allow a court to truly understand the extent to which a victim suffers, as well as their families.

CLAN feels it is of the utmost importance that victims are not silenced. Care Leavers are all too familiar with this feeling from their childhoods, and a Victim Impact Statement can play a large role in minimising this. CLAN is grateful to see that New South Wales Justice Sentencing Council is working towards change and considering the usefulness of a Victim Impact Statement in court proceedings. CLAN is hopeful that the restrictions around Family impact statements will be reconsidered to ensure the best outcome for the victim. Overall CLAN is confident Victim Impact Statements are highly effective and will allow victims to feel heard and supported through the sentencing process, and consequently assist them in obtaining justice and closure.