



Submission to the Royal Commission into Institutional Responses to Child Sexual Abuse: Issues Paper 6

Redress Schemes

**“I’ll be dead before I get justice and it’s
not fair.” Val Noble, 84, Vic**

Redress: Remedy or set right (an undesirable or unfair situation). (Oxford online dictionary)

Compensation: Something, typically money, awarded to someone in recognition of loss, suffering, or injury. (Oxford online dictionary)

Reparation: the action of making amends for a wrong one has done, by providing payment or other assistance to those who have been wronged. (Oxford online dictionary)

Care Leavers Australia Network (CLAN) is a national, independent, peak membership body which represents and advocates for people who were raised in Australia’s orphanages, Children’s Homes, foster care and other institutions. CLAN's objective is to raise community awareness of our issues, and to campaign for government assistance to redress them. Being raised without your family has lifelong implications that require lifelong support services. CLAN can provide information, understanding and emotional support and are campaigning for a national compensation scheme.

Introduction

CLAN would like to take this opportunity to comment on the Redress Schemes Issues Paper. CLAN's response has been informed by our experience with Care Leavers over the last fourteen years. CLAN has members nationwide subsequently leading to vast differences in experience surrounding and involving redress schemes. These range from having absolutely no access to redress in certain states to the inadequacy and inequity of redress schemes in other states. It must be said that no amount of redress will ever compensate the crimes committed against defenceless children who had no one to turn to, nor will it change what happened to them. Redress however is necessary to start righting the wrongs that Care Leavers were subjected to. It is and always has been CLAN's position that the only way to ensure justice and equity for all Australian Care Leavers is to provide a National Independent Redress Scheme (NIRS) for ALL Australian Care Leavers. It is CLAN's recommendation that funds be directed to a national independent reparations and compensation scheme facilitated by a body completely independent of any church, charity or government. CLAN hopes that by reading our submission you may gain a better understanding as to why we feel this recommendation is necessary.

Advantages of Redress Schemes

There are many advantages to having a redress scheme as opposed to Care Leavers utilising other methods of compensation such as civil litigation, victims of crime schemes or professional standards units. First and foremost, a redress scheme is not just a method of compensation but it is an acknowledgment of the pain and suffering Care Leavers have endured throughout their life. Implementing a redress scheme indicates to Care Leavers that their unique histories and circumstances are not only acknowledged but are understood. This implies that the process will be tailored to meet the needs of Care Leavers and to ensure both their psychological and physical health is not jeopardised. It also overcomes the barriers of time based limitations that civil statutes have created which impedes many Care Leavers ability to take up civil litigation. A redress scheme also connotes that there will be support provided and available to those accessing the scheme, allowing for optimal experience.

Besides the fact of the symbolic advantage of a redress scheme, there are many other practical advantages as opposed to other methods of obtaining monetary compensation. A redress scheme will take these important decisions out of the hands of abusive past providers and allow a more just and transparent process as opposed to current professional standards units. It also prevents Care Leavers from having to face their abusers either through civil litigation or professional standards units. This takes a huge psychological burden off and reduces the retraumatisation to Care Leavers which allows them access to something they may have previously avoided because of their unwillingness to face their abusers again.

There are also advantages in the length of time the different methods take. A redress scheme on average (due to past experience with redress schemes) takes less time for an applicant to complete the process than does civil litigation or Victims of Crime processes. In fact we are currently helping a member who first applied for NSW Victims of Crime Compensation in 2007 and is only having her case dealt with presently. The speedier the process the more beneficial for Care Leavers.

Furthermore, other methods can be costly. Civil litigation entails the biggest cost for solicitors fees, but this can also occur during Victims of Crime Compensation as well as in settlements through Professional Standards Units. Whilst CLAN acknowledges the expertise and specialist advice and knowledge that lawyers utilise, sometimes the costs Care Leavers are charged are exorbitant and make the process they went through worthless. Many Care Leavers are left with little to nothing once solicitor's fees and Medicare's fees have been taken out of their settlement, and many have expressed to us that if they knew that would be the case they wouldn't have put themselves through the difficulties and suffering involved with their case. Due to literacy difficulties for many Care Leavers, the civil litigation system and 'lawyer language' can also be hard for them to navigate. Many Care Leavers end up being penalised through the both the civil litigation system and Victims of Crime Compensation Schemes due to the legalistic language used and the difficulties in understanding this.

Lastly, if a National Redress Scheme was introduced it would mean uniformity across the country eliminating the inequality between states and past providers. The redress schemes that have operated in the past all had their flaws and allowed for inequality between Care Leavers. Currently, Care Leavers are punished for being raised in a particular state and not another. If a national redress scheme was introduced it would eliminate the injustice that occurred and all for all Care Leavers to be treated equally.

Disadvantages of Redress Schemes

Redress Schemes have the potential to extremely beneficial and advantageous if implemented and executed correctly. Unfortunately the state redress schemes which existed were all flawed in some way, some more so than others. The major flaw which existed in both the Tasmanian and Queensland scheme was their exclusivity.

For Tasmania, 'voluntary' placements i.e. non state wards were not included in the redress scheme despite living side by side with state wards and experiencing the same abuse and neglect as they did. CLAN member 77 year old Denise was in Mt St Canice in Tasmania and was subject to neglect, abuse and forced labour in the laundry. Furthermore she had her name changed from Denise to Annette and for many years she actually wondered "Who in the heck is Annette?" Despite this treatment Denise was ineligible for redress whilst the state wards who worked by her side were eligible for redress.

In Queensland, those who were in foster care were ineligible for redress. It is more than evident that children in foster care suffered all kinds of abuses, neglect and forced labour, just as those who were in 'care' in institutions did. One CLAN member who was in foster care in QLD was not permitted to apply, whilst her father who was in a QLD orphanage received redress. Furthermore, the Forde Report (1999) named certain Children's Homes and Institutions which was what the Queensland redress scheme was based on. Therefore, if an institution was not named in the Forde Report (1999) anyone who was in 'care' in that institution was also ineligible for redress. Another CLAN member was in the Montrose Home for Crippled Children where she was also abused and neglected, however because this wasn't listed she could not apply for redress.

The lack of inclusivity in both these redress schemes was a major downfall, and needs to be addressed if there is to be the implementation of a national redress scheme. Inclusivity is the key to addressing inequity.

Another disadvantage of the past redress schemes including Redress WA was the short time period which it was open for. Many Care Leavers who were unaware of the redress scheme missed out. For many Care Leavers coming forward about their abuse is a daunting task, even if it is to take part in a redress scheme. As the Royal Commission would be aware, for many coming forward is a big decision which takes time. For many they had to rush this process to take part before the scheme closed leading to psychological suffering, and for others the decision to come forward came too late. For many other Care Leavers like 91 year old Flo who lived in South Australia, the redress schemes just weren't advertised well enough across Australia and by the time many found out about their existence they were closed. Once the redress schemes were closed, no matter how hard we fought for Care Leavers like Flo, nothing could be done, and they refused to make an exception. We wrote to WA Minister Robyn McSweeney on a number of occasions who refused to take a late application and down played the abuse, trauma, and neglect that Flo suffered.

Another issue with past redress schemes is the way compensation and experiences were tiered into categories. This could be quite painful for many Care Leavers who found it hard to distinguish between the arbitrary categories and lines that those who formed the redress schemes had put into place. Differentiating between the forms of abuse and the various experiences of categories can in itself be scarring. Whilst of course there needs to be a system of deciding redress amounts, this could be approached in a more individualised manner rather than categorising Care Leavers once again.

The individualised experience is also something that some Care Leavers may feel is a disadvantage to a redress scheme. Due to the nature of redress scheme and the fact that it is dealing with a whole group, in some aspects the individual can be lost in the process. For some, being able to go through a process that is just about them, and their experiences can be more beneficial. This needs to be weighed carefully though with the many other disadvantages that more individualised processes have.

Features that are important for making redress schemes effective for claimants and institutions

First and foremost a redress scheme is about righting the wrongs of the past. The institutions and past providers who carried out these 'wrong' should not be the main concern. The focus should be on the efficacy for any claimants of a redress scheme, as these are the people that the redress scheme would be established for, and it is their wellbeing that should be at the centre of the Royal Commission's concern. When considering the effectiveness for institutions, CLAN believes that the only thing that should be taken into consideration is how and by what means ALL past providers of institutional care are made to contribute to a national redress scheme.

For Care Leavers, the mistakes of past redress schemes can help us learn what not to do. Firstly, any redress scheme that is established needs to be inclusive. This is the only way to ensure justice and equality for all. This inclusivity should include all institutions, all types of abuse (not just sexual as the Royal Commission is focusing on), and all methods of 'care' i.e. state wards or 'voluntary'.

Another crucial factor that will determine the effectiveness of any redress scheme established for institutional care, is that the institutions and past providers do not have any part in the overseeing or running of the redress scheme. It needs to be taken completely out of the hands of the abusers and

placed in the hands of an impartial board. For many Care Leavers this will ensure transparency and a greater feeling of justice when they are not dependent on a past provider to redress them.

Furthermore to ensure effectiveness it is important that any redress scheme is made open ended. As the Royal Commission would be well aware, those who have been abused can take many years to come to terms with their past, and if a redress scheme is only open for a short time this may not allow adequate opportunity for many Care Leavers to take part. Also, as there are many Care Leavers who are illiterate, who live in isolated areas, or who isolate themselves from society, sometimes it can take a much longer time for these individuals to become aware there is even a redress scheme operating. This was demonstrated on numerous occasions with all the redress schemes that have been opened for Care Leavers. Thus, the fairest way for any redress scheme to operate is to be open ended if it is truly operating within the premise of remedying wrongs.

What forms of redress should be offered?

Any redress should be decided on an individual basis. As previously mentioned, one of the downfalls of redress schemes is that they are not as individualised a process as other compensation mechanisms. To entertain the notion of group benefits not only de-individualises certain experiences, but it becomes bias against other institutions where not as many people have come forward or not as much is known. The Royal Commission thus far have highlighted a select number of institutions, but this in no way means these were the only institutions where abuse was widespread. CLAN would argue that in the majority of institutions all forms of abuse was widespread. To achieve justice for all Care Leavers, any redress scheme needs to evaluate the individual's experience, not the reputation of the institution.

When considering the forms of redress that should be offered, it should not be limited to monetary compensation. CLAN recommends a funeral fund be established for those Care Leavers who can't afford to pay for their own funeral. There have been a number of CLAN members who have unfortunately died with no funeral plans or funds, and it has been extremely difficult to ensure these Care Leavers have the funeral they deserved and are treated with dignity once they have died. Additionally, many of our members tell us that they put money aside from their pensions for a funeral plan, and whilst this is admirable, for many it is increasingly difficult to survive on their pensions and is something they can't really afford. For many though it is so important it comes at the expense of essentials like food and heating.

CLAN would also like to see as part of a redress scheme greater funds or easier access for Care Leavers to the healthcare system. Many Care Leavers suffer from a multitude of both physical, psychological and dental problems. CLAN would like to see separate funds to assist Care Leavers to attain the healthcare they need. This could also involve an overhaul of the system whereby Care Leavers have similar access and recognition to war veterans and war widows, and a Department of Care Leavers is established to handle Care Leaver affairs and issues.

Similarly, as part of a redress scheme CLAN would like to see assistance for Care Leavers with Housing Departments and Centrelink. It is well documented that many Care Leavers live in public Housing and utilise either the aged or disability pension. Having priority access and assistance with these departments would be greatly beneficial to Care Leavers. As above, perhaps having greater recognition of Care Leavers as a group, similar to war veterans or Aboriginal and Torres Strait

Islanders may help to improve outcomes within these sorts of departments. This recognition could include a tick box on government forms for Care leavers similar to ATSI tick boxes.

CLAN would also recommend that redress be given to the families of Care Leavers who have passed away. It is clear that there are many intergenerational effects of a childhood in care. The lifelong impacts that it has had does not just impact on the individual but it effects the families also in a profound way. CLAN's own research through our surveys, *A Terrible Way to Grow Up* (2007) and *Struggling to keep it together* (2011), has demonstrated the intergenerational effects of 'care', and we are sure the Royal Commission is very aware of this aspect through the evidence which has been provided thus far.

Advantages and Disadvantages of a National Redress Scheme

CLAN firmly believes that any redress scheme implemented for Care Leavers should be a NIRS. The advantages of a NIRS far outweigh what some states have had to offer. Unfortunately, because the Commonwealth failed to accept responsibility and to exercise leadership over the states through the Council of Australian Governments (COAG), we were left with a situation where three unsatisfactory and unjust redress schemes were administered in WA, TAS and QLD. CLAN does not want to see this happen again, and strongly feels the only way forward is a national redress scheme.

A national redress scheme eliminates the inequality between the states. It means those states which have had redress schemes are brought into line with those who have not. It also gives those who missed out in prior redress schemes a chance to claim redress, and address the inequality they were subjected to.

A NIRS would also be more impartial than state run redress schemes. As the federal government has no connections to the institutions per se, it would mean that one state is not disadvantaged over another.

The State Governments need to contribute financially to an NIRS. At the end of the day it was the State Governments who failed children more than anyone else. They had the duty of care to all children and for the running of state institutions, as well as for the licensing, funding and overseeing of the non- government institutions. A NIRS for Care Leavers could only be effective if the state governments contribute financially to it.

CLAN wants to see all state governments, churches, charities and any other past providers contribute to a NIRS. This scheme should then be used as the basis for administering a national redress scheme.

CLAN would like to reiterate though that any redress scheme to be established needs to be inclusive of all forms abuse. Children in Orphanages, Children's Homes, foster care and other institutions were physically abused to the extent of torture, they were neglected, malnourished, deprived of medical attention, psychologically abused and deprived of family and an identity, and endured unpaid forced labour in orphanages through cleaning, looking after younger children, maintaining the orphanages and Homes, working on farms and in laundries. There is more than one way to harm a child, and all of these wrongs need to be remedied, not just sexual abuse.

Institutions and internal redress schemes

As mentioned elsewhere in this submission, internal redress schemes conducted through professional standards units have many downfalls that outweigh any foreseeable advantages. CLAN members commonly refer to these sorts of schemes as 'shut up money', as in the past they were given monetary compensation on the proviso they did not speak about their abuse. Still, this money is given on the basis that the institution is released from all future liability regarding their treatment of the child whilst in 'care'. The amounts they are given is an insult, but these schemes can run because past providers know just how difficult it would be for Care Leavers to take it through civil litigation where they may be entitled to more compensation. CLAN recommends that when a NIRS is established these sorts of internal schemes should be abolished.

The point of having a NIRS is to take decisions out of the hands of past providers and abusers and make it a more impartial and just avenue. It is important to Care Leavers that a NIRS is both independent and free from influence of past providers determining the amounts of compensation. Therefore any scheme should be independent of a past provider, and these internal redress schemes which are not only unjust but are retraumatising and should not continue.

Should establishing or participating in redress schemes be optional or mandatory for institutions?

If a NIRS is established, participation needs to be mandatory for institutions. If it is made optional, many past providers would prefer not to join and will continue to use their internal compensation processes that provide unfair outcomes. If this occurs then nothing will change. A national redress scheme is pointless unless ALL past providers are held accountable and contribute to a national reparations fund. Since most of the past providers, barring the state governments, are charities and not for profit agencies, perhaps consideration could be given to withholding certain tax concessions or funding, making it conditional on their participation and contribution to a national redress scheme.

Should seeking redress through a national redress scheme be optional for claimants?

A redress scheme is established for the benefit of the claimants, not as a mandatory avenue which prevents them from seeking justice elsewhere. A redress scheme is about making the process for those involved easier and is about acknowledging their pain and suffering. It is NOT about denying them their right to justice.

Whilst it is hoped that a national redress scheme will provide Care Leavers with an adequate amount of compensation, the harsh reality is that the civil litigation system has the ability to provide claimants with much larger sums. It also has the ability to focus on the individual and allow the individual their day in court, having their evidence heard openly. Whilst Care Leavers claims have not had a great deal of success in the past through civil litigation, there have been a number of cases involving abuse or deprivation of rights which have had large sums of compensation awarded. CLAN have provided a number of examples of these in Appendix A.

It is for these reasons that if a national redress scheme is established it should not be the only avenue Care Leavers are allowed to consider, it should just be one of the avenues they can utilise.

Fairness and consistency between institutions due to asset differences and lack of successor institutions

CLAN believe that the amounts past providers contribute should not be based on the assets they have. Rather the fairer and more impartial way is to be able to designate an amount either per child that went through the particular institution, or based on how many institutions the provider ran and the size of these institutions.

Most institutions do have successor institutions, who took on the burdens of the history and past wrongs of the previous institution. If on the odd occasion there is no successor institution, the burden should then fall to the state and commonwealth. As mentioned prior, the state was the one who had the ultimate duty of care who were in loco parentis, and failed abysmally in carrying this out. The Commonwealth also paid child endowment to the states which assisted in the running of the institutions. CLAN believe that if there is a shortfall because some institutions are not as financially capable as others, again the burden should fall on both the state and the Commonwealth who failed in their duty of care.

Whichever way redress is organised, it should not be at the detriment of Care Leavers. While all past providers need to contribute and be responsible for the damage done, if there is the possibility some Care Leavers may be disadvantaged, the state needs to carry this shortfall. The state is the ultimate parent/guardian.

Advantages and disadvantages of damages based on civil litigation systems

As seen in Appendix A, the amounts which can be awarded as damages in civil suits far outweighs any amount that has been offered in prior redress schemes. Care Leavers deserve compensation amounts comparable to this, as in many cases the pain, suffering and deprivation of liberties has been more extensive and for a longer period than many of the cited cases. Historically, the amounts offered to Care Leavers through established redress schemes, professional standards units, and victims of crime have been minimal and for many Care Leavers hardly worth the pain and suffering of the process.

Verification/proof under a redress scheme

CLAN sincerely hope that by this stage of the Royal Commission, those involved recognise the multitude of difficulties in proving or providing evidence of abuse. It has been well established through both the Senate Inquiry report (2004) Forgotten Australians, as well as through public and private hearings of the Royal Commission, that all forms of child abuse, including the sexual use of children was prevalent if not rampant. When considering that we are dealing with crimes that occurred up to eighty and even ninety years ago, there is barely any evidence left except for a person's story. The very nature of sexual abuse dictates it is perpetrated in a way that often means there are no witnesses, and if there are they may not want to come forward. Many institutions failed to keep accurate records, have destroyed records, or failed to provide children with adequate healthcare which may have been able to record signs of abuse. Another barrier facing Care Leavers is that for many there was no way of reporting the crimes and involving the authorities, and in most circumstances the authorities didn't want to listen. These crimes were never investigated, but this is not the fault of Care Leavers, and they should not be penalised because of this.

CLAN feels that it is acceptable to require some sort of confirmation of being in care. This does not just have to be through records as some people have none, but can also be through witnesses, other children at the Homes who remember them, family who remember them going there and even child endowment payments. Once again it needs to be reinforced that our belief is a redress scheme should be established for ALL forms of abuse and for unpaid wages for child labour. This will also assist the process of providing evidence/proof, as it lowers the specific standard of having to prove sexual abuse.

Institutions should have NO involvement in the claims, except in a third party mechanism whereby they are required to provide all records to redress that they have, uncensored. Past providers should also not be allowed to support Care Leavers through the redress process in anyway, but especially in completing forms and paperwork for redress. All forms would need to be vetted to ensure no past provider has mistakenly been given authority to act on a Care Leavers behalf. The point of having a redress scheme is to take it out of the hands of abusive past providers and to create a more transparent system. Care Leavers should not be made to battle with institutions through a redress scheme.

What sort of support should be available for claimants when participating in a redress scheme?

It is of the utmost importance that Care Leavers be provided with emotional support when participating in a redress scheme. Similar to the process of the Royal Commission, in our experience with the state redress schemes, the process is an extremely difficult and daunting one. Legal advice and assistance should also be made freely available through any redress scheme to ensure those involved are making informed decisions and know all their options and rights legally.

The best way to roll out these services is to provide funding to organisations who already work with Care Leavers and who already have relationships with Care Leavers. Similar to the implementation of Royal Commission support, organisations should receive funding to assist those who require support through a redress scheme process. This funding should cover both emotional support as well as more practical casework support such as helping those with literacy difficulties to complete the forms required to apply for redress.

When discussing limits of services, it is wise to remember that processes like redress schemes whilst being beneficial can also be retraumatising and triggering of past abuse. This requires long term support for many. When the WA Redress scheme was introduced CLAN was given funding to provide a certain amount of counselling sessions per client. WA Redress wanted to limit the services provided to Care Leavers. The immediate effect of this, was that a handful of counselling sessions was not enough to provide adequate support to those going through the redress process. As a result CLAN had an influx of Care Leavers needing support, which we provided, however we had no ongoing funding from Redress WA to provide this service. Therefore, when trying to limit services, the burden then falls with organisations such as CLAN who will continue to support Care Leavers regardless, however who are not being funded to carry out this support. There are some CLAN members who we are still supporting through issues that Redress WA created.

Deciding on financial compensation when a claimant has already been compensated elsewhere

If an individual has already received compensation elsewhere it should not preclude them for participating in a national redress scheme. However, those who have not received any sort of compensation should be made the first priority of the NIRS. Similarly, the elderly, sick, and dying should also be prioritised and receive any compensation first.

Depending on the amount of compensation given in a NIRS, those who have received compensation prior should be able to participate in the new scheme to ensure they are compensated at the same level as everyone else. Furthermore those already compensated should also be able to access any of the services and benefits that a new redress scheme may have.

The ultimate goal is to achieve justice and redress for ALL Australian Care Leavers. The key is inclusion and equality across all states and all institutions.

CLAN's Recommendations

1. That the Commonwealth should take the initiative through COAG's leadership in coordinating redress schemes for all states.
2. Those contributions to a NIRS should be made by the Commonwealth and the respective state governments as well as ALL the churches charities and other past providers of Orphanages, Children's Homes, foster care and other institutions.
3. Contributions should also be made by foster carers who abused children to make them accountable for their actions also.
4. That a NIRS should include all types of Care Leavers (state wards, voluntary placements, foster care and children who were in residential care because of disability).
5. That each compensation claim should be dealt with on its own merits and not be classified in a tiered system based on type of abuse.
6. That a NIRS should be open ended and failing this it should be left open for a reasonable amount of time and upon closing that there be a provision for those who missed out to still apply.
7. That individuals employed to administer the scheme should be trained to deal with the issues of Care Leavers and these workers should be capable of showing appropriate sensitivity and respect.
8. The Medicare compensation recovery program should not be applicable to a NIRS, and NO Care Leaver should have money taken by Medicare out of their compensation payment.

Reference List

CLAN (2007). *A Terrible Way to Grow Up*. Bankstown: CLAN

CLAN (2011). *Struggling to Keep It Together*. Bankstown: CLAN

Community Affairs References Committee (2004) *Forgotten Australians – A Report on Australians who experienced institutional or out-of-home care as children*. Canberra: Senate Printing Unit, Parliament House.

Forde Inquiry Report - Commission of Inquiry into Abuse of Children in Queensland Institutions (August 1999) Retrieved 1st May 2014 from <http://www.communities.qld.gov.au/communityservices/community-support/forgotten-australians/publications-and-resources>

Appendix A

Immigration Detention:

- In 2004 Cornelia Rau was wrongfully detained by the Immigration Department for 10 months after she discharged herself from Manly hospital and was suffering from a mental illness. In 2005 Rau was compensated \$2.6 million by the Commonwealth government for her wrongful detention and to compensate her for ongoing mental health problems that went untreated during her detention. It was reported that "The payment not only compensates her, but also is sufficiently large to provide for her for the rest of her life". The Commonwealth also paid Ms Rau's legal costs (*Sydney Morning Herald*, 7 March, 2008).

- On 30 November 2006, Vivien Solon, an Australian citizen wrongly detained and deported from Australia, was awarded a compensation payout reported to be \$4.5 million (*The Age*, 30 November 2006).

Injury while in gaol:

- Since 2005 nineteen NSW prison inmates have won public liability compensation from the NSW Government amounting to \$7.025 million for injuries such as being hit with a cupboard and fights inside prison leading to injuries. Care Leavers are aghast at reports of outrageous cases including a convicted paedophile, Peter Andrew Bujdoso, who avoided giving his victims any of a \$175 000 compensation payout. (News.com.au 8 September, 2008).

- A convicted drug dealer who won about \$300 000 in compensation for injuries he sustained in jail has been forced to share \$100 000 with his three victims. The case was the first success arising out of 2005 legislation that provides for victims to be informed within 28 days, and a public notice published in the *Government Gazette*, when an inmate gets a compensation win so victims can start their own action in the Supreme Court to obtain a share of it (*The Daily Telegraph*, 28 March, 2008).

Wrongful imprisonment

- Andrew Mallard was awarded a \$3.25 million dollar payout by the Western Australian government after he was wrongfully jailed for twelve years for the murder of a Perth woman in 1994 (*news.com.au*, 5 May 2009).

Stolen Generations

- Bruce Trevorrow, an Aboriginal man, was awarded \$525 000 (plus \$250 000 interest) by the SA government for being taken from his family more than fifty years ago (*Adelaide Advertiser*, 2 August, 2007). Proceedings in this case were initiated in 1997. The SA Government seriously damaged its reputation with its belligerent behaviour following the outcome of the case - even after Mr Trevorrow's early death (*The Australian*, 22 March, 2010).

Bullying in schools

- A Victorian secondary school student was awarded \$290 000 from the state government after being bullied on a daily basis. The teenager suffers from depression, agoraphobia, panic disorder, insomnia, and an eating disorder as a result of the abuse (AAP, 11 March 2010).

- A victim of a schoolyard bully in NSW was awarded almost \$1 million in damages from the state government because the state education system failed in its duty of care (*SmartCompany.com.au*, 22 May 2007).
- A man who was consistently bullied by his peers whilst at a boarding school in Tamworth received a compensation payment totalling \$468 736. Mr Gregory was awarded \$247 500 for non-economic loss, \$196 378 for future loss due to his reduced earning capacity and \$24 858 for future superannuation loss.

Corporal Punishment in Schools:

- Dr Paul Hogan was awarded 2.5million dollars in 2001 for receiving eight straps to the hand whilst a student at St John's College Lakemba, NSW. Dr Hogan claimed damages for physical and emotional effects, loss of income, medical costs, and loss of enjoyment of life. Please see Appendix 6.

Child Welfare

- A Care Leaver from NSW has received \$281 461 after the Department of Youth and Community services failed in its duty of care to prevent foreseeable risk of injury. As a result this woman was sexually abused by her foster father from a very young age, and then when she was taken back to her father, whom she barely knew, he sexually abused her, which resulted in her giving birth to two of his children. As a result of this she was in and out of involuntary psychiatric care for a number of disorders.

Discrimination and harassment

- In 2005 a NSW woman was awarded almost \$340 000 in compensation due to her supervisor failing his duty of care (http://www.beyondbullying.com.au/bb_case.html, accessed 25 May 2010).
- In 2007 the NSW Court of Appeal upheld a decision to award an employee almost \$2 million for extreme bullying and harassment by the Company's Fire and Safety Officer. The Court ruled that the perpetrator's conduct was so brutal that it was likely to cause psychiatric injury (www.austlii.edu.au/au/cases/nsw/NSWCA/2007/377.html accessed 25 May 2010).