



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

CLAN's Submission to the NSW Government on the Draft Claim Farming Practices Prohibition Bill 2025 (NSW).

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 the opportunity to comment on this submission regarding the draft bill on claim farming practices.

Firstly, CLAN believes that this Inquiry is of relevance to our organisation and the people we support. Whilst CLAN are not a specialist legal support service, we have been supporting Care Leavers since our inception in the year 2000.

Prior to the establishment of the National Redress Scheme, CLAN supported Care Leavers to attend and participate in the **Royal Commission into Institutional Responses to Child Sexual Abuse**, as well as the **Senate Inquiry into Children in Institutional Care** before that.

Additionally, prior to the Royal Commission, CLAN have been involved and supported Care Leavers to access various other schemes which provided some sort of 'response' to the abuse that was perpetrated upon them as children. These 'responses' included various state based redress schemes, various state based Victims of Crimes schemes, as well as institutional based professional standards schemes like Towards Healing which was run by the Catholic Church, as well as others including the Anglican and Salvation Army schemes.

Furthermore, prior to the National Redress Scheme, CLAN supported some Care Leaver's to access the civil litigation system via legal representation, as well as providing emotional support for those reporting the crimes committed against them to the police and continuing this support if the case resulted in the perpetrator being charged and the case being held in court.

Thus, over our 25 years of supporting and advocating for Care Leavers, CLAN has had much experience in assisting and supporting Care Leavers to access various redress and compensatory responses including litigious ones.

Responses to the Draft Bill

As CLAN are not legal professionals, we will not be providing an in depth legal perspective on your Draft Bill. Our response is based on our first hand experiences whilst supporting Care Leavers – a vulnerable population to claim farming practices.

Firstly, CLAN welcome the NSW Governments response to the issue of claim farming. Since the **Royal Commission into Institutional Responses to Child Sexual Abuse**, the issue of claim farming has been growing. With the recommendations and changes to legislation over the last decade initiated by the Royal Commission, Care Leavers now have more choice in how they respond to the crimes committed upon them as children. There has been an even larger increase in claim farming however, since the National Redress Scheme began. More and more Care Leavers are being encouraged and 'recruited' to seek compensation through law firms. As a Redress Support Service supporting Care Leavers through civil litigation is now out of our scope.

Whilst it is encouraging Care Leavers have a choice in how they pursue redress, compensation and 'justice', it is disgusting that many Care Leavers are preyed upon and even pressured to go down the civil litigation route.

Those who pressure Care Leavers are not providing the pitfalls and difficulties that many Care Leavers will have to face when taking up a civil action. They are simply told that they can get a much better payment than through the National Redress Scheme (NRS). It is not until they are in the thick of things that they realise the full extent of the decision they have made and often by then it is too late, they are already indebted to the fees and costs of the lawyers.

CLAN would like to point out that Care Leavers are a very vulnerable population, in all aspects, but particularly at the moment with regards to claim farming due to the interest the NRS has created for lawyers. Care Leavers are not only a ready-made population for lawyers to take advantage of, but in general the low literacy levels of Care Leavers make them particularly vulnerable to the onslaught of claim farmers.

CLAN also believe that prisoners are a particularly vulnerable population whose needs can and will be taken advantage of as well. We would advise the NSW Government to exercise scrutiny of lawyers getting access to prisoners to encourage them to initiate claims. As there are many Care Leavers in the prison population CLAN have had first hand experiences of these practices.

CLAN is in support of the measures outlined in your Bill both in making claim farming whether on a small or large scale illegal and imposing a large penalty on those found guilty. CLAN does believe and support the recommendation that there needs to be additional consequences for lawyers to face both professionally as well as legally. NSW needs to send a strong message that is unacceptable to exploit those who have already been abused, hurt and traumatised for the ultimate profit of the individual lawyer or law firm.

CLAN however believe that there should be interim arrangements to stop the profiting of claim farming or allow for those who have been a victim of claim farming and unduly pressured or coaxed into litigation to be able to get out of their contracts without penalty to themselves. Deciding on an arbitrary date in which claim farming is illegal does not make it okay for those who have already been subjected to the practice and are being penalised as we speak because of it. We urge the NSW government to introduce some sort of transitional arrangements to address the needs of Care Leavers and other 'victims/survivors' of abuse so that greedy and untoward lawyers do not profit from their misery.

CLAN would also like to make comment on the general exemption for public advertising. Whilst in general this is acceptable, CLAN would like to bring to your attention some unscrupulous lawyers who advertise in a misleading way to draw in claimants. During both the Royal Commission and the National Redress Scheme there have been law firms who have set up advertising and webpages under similar names/words to lead Care Leavers to their page instead of the NRS or in the past the Royal Commission page. Again, to remind you that many Care Leavers were deprived of an education and have low literacy rates, this sort of tactic proved successful. Whilst advertising is acceptable, misleading advertising can be a form of claim farming and needs to be addressed.

Conclusion

CLAN once again thanks the NSW Government for taking action against Claim Farming. We ask that you ensure vulnerable populations like Care Leavers and prisoners are protected from those trying to take advantage of them. We urge you to reconsider your position on transitional arrangements to

provide some sort of out, for those who already have been coaxed into a claim without fully understanding the consequences etc. It is unfair that these individuals will still be subjected to these predatory practices. We also ask that there is some consideration given to advertising that is misleading as a form of claim farming and should be acted upon appropriately.