The Senate

Community Affairs References Committee

Lost Innocents and Forgotten Australians Revisited

Report on the progress with the implementation of the recommendations of the Lost Innocents and Forgotten Australians Reports

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42nd Parliament

from 14 May 2009

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Senator Farrell to replace Senator Bilyk

Participating Members for this inquiry

Senator Sarah Hanson-Young	AG, South Australia

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RECOMMENDATIONS

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Recommendation 1

6.16 The Committee recommends that the Commonwealth government issue a formal acknowledgement and expression of regret to former child migrants in accordance with recommendation 30 of the *Lost Innocents* report; and that this statement be issued in conjunction with, or as a part of, a broader Commonwealth apology to people who experienced abuse and/or neglect in institutional or out-of-home care as children.

Recommendation 2

6.21 The Committee recommends that the Commonwealth government issue a formal statement of acknowledgement and apology to children who suffered hurt and distress, or abuse and assault, in institutional care, in accordance with recommendation 1 of the *Forgotten Australians* report.

Recommendation 3

6.25 The Committee recommends that the Prime Minister write to relevant churches and religious agencies requesting that they provide formal statements concerning the need for such bodies to make reparation to children who suffered abuse and neglect in their care in the last century, and addressing in particular the issues of apology, redress and provision of services to care leavers, and the implementation of the recommendations of the *Forgotten Australians* report; the Committee further recommends that the Prime Minster cause the statements provided by churches and religious agencies to be collated and tabled in parliament.

Recommendation 4

6.38 The Committee recommends that the Commonwealth government pursue all available policy and political options to ensure that South Australia, New South Wales and Victoria establish redress schemes for people who suffered neglect and/or abuse in institutional settings or out-of-home care in the last century; and that the remaining States make provision to ensure continued receipt of redress claims.

Recommendation 5

6.39 The Committee recommends that the Commonwealth government pursue the establishment of State redress schemes through the Council of Australian Governments (COAG) and other appropriate national forums.

Recommendation 6

6.45 The Committee recommends that churches take steps to ensure that processes for handling abuse allegations are consistent across all jurisdictions; and that such processes conform to recommendation 7 of the *Forgotten Australians* report.

Recommendation 7

6.48 The Committee recommends that the Commonwealth government provide further financial and other support for former child migrants to re-establish and develop family connections.

Recommendation 8

6.52 The Committee recommends that State governments which have not yet done so commit funding to the Child Migrants Trust (CMT) for at least the next three years.

Recommendation 9

6.63 The Committee recommends, in accordance with recommendation 33 of the *Forgotten Australians* report, that the Commonwealth and States commit, through the Council of Australian Governments (COAG), to implementing a whole-of-government approach to the provision of programs and services for care leavers across policy areas such as health, housing and welfare and community services and other relevant policy areas.

Recommendation 10

6.64 The Committee recommends that the Commonwealth and State governments reconsider the previous responses to recommendations 25 to 28 of the *Forgotten Australians* report with a view to explicitly recognising and meeting the needs of older care leavers in the funding and development of health, housing, aged care and education programs; and ensuring that appropriate services are provided.

Recommendation 11

6.67 The Committee recommends, in accordance with recommendation 39 of the *Forgotten Australians* report, that the Commonwealth, in co-operation with State Governments, establish courses of study at selected tertiary institutions that focus on child protection and related issues, especially early childhood and family studies, psychology, conflict management, the impact of institutional care and social policy to address issues in these areas.

Recommendation 12

6.72 The Committee recommends that the Commonwealth government pursue the reform of national freedom of information (FoI) and privacy legislation to ensure that care leavers are not hindered in their access to information about their

childhoods and families; and that current and future reviews of Commonwealth and State FoI regimes explicitly address this issue.

Recommendation 13

6.79 The Committee recommends that the Commonwealth government provide recurrent funding to the Alliance for Forgotten Australians (AFA) and Care Leavers Network Australia (CLAN) to enable these groups to continue providing adequate services to care leavers on a national basis.

Recommendation 14

6.80 The Committee recommends that the Commonwealth government provide funding to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to administer a fund for providing operating grants to care leaver advocacy and support groups.

Recommendation 15

6.91 The Committee recommends that the Ministerial Council for Police and Emergency Management (Police) develop and implement a national policy on the prosecution of, and data collection and sharing about, historical crimes of sexual and physical abuse of children in care; and that the establishment or further development of specialist State police units be considered as part of this policy development process.

Recommendation 16

6.94 The Committee recommends that the States consider establishing an annual remembrance day for care leavers, similar to that held by Queensland each year during Child Protection Week.

CHAPTER 1

INTRODUCTION

Terms of reference

1.1 On 18 September 2008 the Senate referred the following matter to the Community Affairs Committee for inquiry and report by the last sitting day in March 2009.[1] This date was subsequently extended till 25 June 2009.

Progress with the implementation of the recommendations in the reports by the Community Affairs References Committee, *Lost Innocents: Righting the Record*, a report on child migration tabled in August 2001, and *Forgotten Australians*, a report on Australians who experienced institutional or out-of-home care as children tabled in August 2004.[2]

Conduct of the inquiry

1.2 The Committee's inquiry was focussed on the implementation of the recommendations from the earlier reports. The terms of reference did not provide scope for the Committee to undertake or reopen the broad range of issues that were covered in the earlier reports.

1.3 The inquiry was advertised in the *Australian* and on the Internet. The Committee invited submissions from Commonwealth, State and Territory governments and interested organisations and individuals.

1.4 The Committee received 64 public submissions and 13 confidential submissions. A list of individuals and organisations that made a public submission or provided other information that was authorised for publication by the Committee is at Appendix 1.

1.5 The Committee held five days of public hearings in Melbourne (30 March 2009); Perth (31 March); Brisbane (6 April); Sydney (7 April) and Canberra (8 April). Evidence was also taken by teleconference from Tasmania and South Australia. Witnesses who give evidence at the hearings are listed in Appendix 2.

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1 Following the restructuring of Senate Committees on 13 May 2009, the inquiry was continued by the Senate Community Affairs References Committee.

2 The *Lost Innocents* and *Forgotten Australian* reports are available at http://www.aph.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/index.htm

The report

1.6 This report is divided as follows; Chapter 1 provides the background to the Lost Innocents and Forgotten Australians inquiries; Chapter 2 provides an outline of the evidence provided in relation to the implementation of recommendations dealing with national leadership, apologies, reparation and redress, and judicial inquiries and Royal Commissions; Chapter 3 outlines the evidence relating to delivery of services, preservation and access to records, and the operation of support groups; Chapters 5 and 6 provide a listing of all the recommendations made in each report and the former government's response to each recommendation and a comment on progress with implementation; Chapter 6 provides a discussion of the evidence on the major issues and contains the Committee's conclusions and recommendations.

Background

1.7 30 August 2008 was the 7th anniversary of the tabling in the Senate of the *Lost Innocents* report and the 4th anniversary of the tabling of the *Forgotten Australians* report. The Community Affairs Committee agreed that it was time to update progress with the responses to its recommendations in these reports and sought the formal reference from the Senate.

1.8 Both of these inquiries had been established on the motion of former Senator Andrew Murray. He regarded the reports of these inquiries as rounding off a trilogy of reports on the treatment of children in Australia following the earlier report *Bringing Them Home* by the Human Rights and Equal Opportunity Commission.[3]

Lost Innocents: Righting the Record

1.9 *Lost Innocents: Righting the Record* was the Committee's report on child migration to Australia under approved schemes during the twentieth century in which the British and Australian Governments entered into agreements for the migration of children to Australia. The schemes also included child migrants from Malta.

1.10 The operation of the child migrant schemes and the impact upon those involved had remained unknown to the general population for many years. Throughout the 1980s and 1990s, a growing number of concerns about the welfare of children who had been, or were still, in institutions and other child care arrangements were investigated. In 1985, the Senate Standing Committee on Social Welfare tabled its report *Children in Institutional and other Forms of Care: a National Perspective*.

1.11 Gradually, details of the history of child migrants were coming to light. A number of books were published on child migration, its history, the impact on the lives of former child migrants and the stories of individuals who were migrated to

3 Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, April 1997, available at http://www.hreoc.gov.au/social_justice/bth_report/index.html.

Australia, Canada and New Zealand. *Empty Cradles* by Margaret Humphreys (1994) was a seminal work in this area. Child migration was also the topic of the television documentary *Lost Children of the Empire* (1989) and the mini-series *The Leaving of Liverpool* (1994). These publications led to a growing awareness and understanding of the history and issues surrounding child migration.

1.12 In November 1996 a Select Committee of the Western Australian Legislative Assembly tabled an Interim Report on child migration to WA, though an election intervened before further action was taken. In July 1998 the UK House of Commons Health Committee reported on an inquiry into aspects of child migration. The UK Government accepted the recommendations from the inquiry, resulting in some assistance for child migrants including support for a travel fund and tracing services.

1.13 During the late 1990s there had been a number of calls from different groups and individuals for an independent national inquiry into child migration to Australia, including calls for a joint or select parliamentary committee inquiry. The outcome of these calls was for the issue to be referred to the Committee in June 2000.

1.14 The Committee found that at the basis of the child migration schemes the Australian Government was the legislated guardian of the children but it then transferred responsibility for their care to State governments. In turn, the State governments transferred responsibility to receiving agencies.

1.15 While responsibility may have been transferred, the Committee heard during the inquiry that in many cases the duty of care and protection was not. Some child migrants made positive comments about their time in institutional care. Many others could only recall childhoods of loneliness, great hardship and privations. While under the custodianship of receiving agencies, there was a complete disregard for the needs, the safety and wellbeing of many child migrants.

1.16 The *Lost Innocents* report recognised that while some former child migrants have prospered in this country, have successful relationships with partners and children and never lost contact with family, many others are not in this position. The report illustrated the consequences of emotional deprivation and abuse in childhood, and the struggle such children face as adults to cope and contribute and to live fruitful and constructive lives.

1.17 The Committee detailed that the cost, both human and economic, of treating our children as described in the report is great. Equally grave, was that the damage done is passed on to subsequent generations.

1.18 Many of the submissions received by the Committee contained the most appalling stories of abuse and torment. The evidence received by the Committee overwhelmingly emphasised the dark, negative side of child migration—the brutality of life in some institutions where abuse and assault, both physical and sexual, was a daily occurrence and where hardship, hard work and indifferent care was the norm. Living such negative experiences led some child migrants into a life of family and

relationship breakdown and domestic violence, of crime and violence, and of substance abuse.

1.19 The child migration scheme is now universally recognised as having been fundamentally flawed with tragic consequences. Many of the sending and receiving agencies now recognise that the effects of the Scheme were profoundly damaging to many of the children involved and that they now share a continuing moral responsibility to the well-being of the former migrant children affected by their experience in the agencies' care.

1.20 The Committee acknowledged in *Lost Innocents* that child migration is a very emotive issue and that there is a diversity of strongly held views by individuals and groups. While the Committee was mindful that there were positive outcomes for many children from the child migration schemes, the overwhelming evidence of abuse and assault outlined in submissions and earlier reports remained the primary focus. The fundamental imperative for former child migrants of the recognition and acknowledgment of their past experience was constantly emphasised in evidence to the Committee.

1.21 Loss of identity, a sense of belonging and the loneliness of being far from home affected all child migrants. Thus, even though the report contains recommendations directed to the support of the most damaged former child migrants, there are many other recommendations such as those dealing with identity through access to records, family tracing, travel and reunion that will assist all former child migrants, their families and descendants who wish to access such information and services.

1.22 During the child migrant inquiry, the Committee also received submissions from Australian-born children who had been in institutional care; many of whom had lived in the same institutions as the child migrants. Whilst they were not removed from their country and culture, many suffered the same abuse and deprivations as child migrants in these and other institutions. Calls were made in evidence that a further inquiry should be conducted into these Australian-born children.

Forgotten Australians

1.23 In March 2003 the Committee duly received the reference on the Australians who experienced institutional or out-of-home care as children. The report *Forgotten Australians* was tabled in August 2004 after an extensive inquiry.

1.24 The Committee received hundreds of graphic and disturbing accounts about the treatment and care experienced by children in out-of-home care. Like the child migrants before them, many care leavers showed immense courage in putting intensely personal life stories on the public record. Their stories outlined a litany of emotional, physical and sexual abuse, and often criminal physical and sexual assault. Their stories also told of neglect, humiliation and deprivation of food, education and healthcare. Such abuse and assault was widespread across institutions, across States and across the government, religious and other care providers.

1.25 But the overwhelming response as to treatment in care, even among those that made positive comments, was the lack of love, affection and nurturing that was never provided to young children at critical times during their emotional development.

1.26 The Committee concluded that upwards of, and possibly more than, 500 000 Australians experienced care in an orphanage, Home or other form of out-of-home care during the last century. However, it is now considered that this figure may be an underestimate. As many of these people have had a family it is highly likely that every Australian either was, is related to, works with or knows someone who experienced childhood in an institution or out-of-home care environment.

1.27 Children were placed in care for a myriad of reasons including being orphaned; being born to a single mother; family dislocation from domestic violence, divorce or separation; family poverty and parents' inability to cope with their children often as a result of some form of crisis or hardship. Many children were made wards of the state after being charged with being uncontrollable, neglected or in moral danger, not because they had done anything wrong, but because circumstances in which they found themselves resulted in them being status offenders. Others were placed in care through private arrangements usually involving payment to the Home. Irrespective of how children were placed in care, it was not their fault.

1.28 Children were placed in a range of institutions including orphanages, Homes, industrial or training schools that were administered variously by the State, religious bodies and other charitable or welfare groups.

1.29 The *Forgotten Australians* report outlines not only how complex and varied the long term impact of a childhood spent in institutional care can be for the care leaver but also that their children and families have also felt the impact, which can then flow through to future generations.

1.30 The Committee concluded that there had been wide scale unsafe, improper and unlawful care of children, a failure of duty of care, and serious and repeated breaches of statutory obligations.

1.31 The Committee further concluded that many comments in recent years by governments, churches and care providers reveal a complete lack of understanding of or acceptance of responsibility for the level of neglect, abuse and assault that occurred in their institutions. Actions and statements by these groups since the inquiry would indicate that in many instances there remains at best only a rudimentary awareness of these issues and their implications.

1.32 The Committee made a number of recommendations. Foremost among them was that the Committee believed that governments, the Churches and agencies should issue formal statements acknowledging their role in past institutional care policies and practices and the impact this had on the lives of many care leavers. These statements should express sorrow and apologise for the physical, psychological and social harm caused as a result of the care leavers' experiences as children in institutional care. The Committee also considered that these acknowledgments must be accompanied by

other positive measures as recommended in the report to ensure that they are not regarded as merely 'empty gestures' by the care leavers and the community generally.

1.33 Other key recommendations made by the Committee included establishing a national reparations fund for victims of institutional and out-of-home care abuse; providing improvements to the transparency and accountability of internal church processes for dealing with allegations of abuse and their commitment to address past grievances; a range of measures to assist in identifying, locating and accessing personal records; providing a raft of services to address the needs of care leavers, especially support and advocacy services, counselling and the need for specialised counselling services, and programs to tackle health and ageing, housing and homelessness, and adult literacy and numeracy and other education services are addressed.

Comment since Reports' tabling

1.34 The evidence received by the Committee during the current inquiry has shown that the response to the recommendations of the earlier inquiries by the Commonwealth and State governments, the churches and agencies has been variable. In some instances considerable work and progress has been undertaken, in other areas progress is slow or no action has been taken. The discussion on the level of response by the different jurisdictions is in the following chapters.

1.35 Some of the notable developments that have occurred since the tabling of the earlier reports have been the holding of inquiries in some States, most notably the extensive Commission of Inquiry in South Australia by Ted Mullighan; the introduction of redress schemes in some States—though notably not in New South Wales or Victoria; the making of apologies in some States—though their content and manner of delivery were variable; and the growing membership and involvement of care leavers with support groups and the gathering of individuals to form more self-help and support groups, often through the lack of assistance from other services.

1.36 Since the tabling of *Forgotten Australians* in August 2004, the activities of support groups and reunions held by some homes and service providers has led to many people with a background of institutional care as a child finding out about the support and assistance that different groups can provide. Many did not know of the earlier Senate inquiry and as awareness increases so do requests for copies of the *Forgotten Australians* report. As at June 2009 just under 7000 copies of the report have been printed and distributed.

CHAPTER 2

APOLOGIES, REDRESS AND JUDICIAL INQUIRIES

2.1 This chapter considers some of the major issues raised in evidence concerning the implementation of the recommendations of the *Forgotten Australians* and *Lost Innocents* reports. These are:

- the requirement for the Commonwealth to provided national leadership in ensuring coordinated and comprehensive responses to care leaver issues;
- national and State apologies to care leavers;
- reparation and redress schemes; and
- the need for judicial inquiries and/or a Royal Commission.

2.2 In most cases, both the *Lost Innocents* and *Forgotten Australians* reports made specific recommendations going to these issues. However, it is also the case that many of the recommendations in *Forgotten Australians* applies to care leavers more generally, and should be understood as being potentially relevant to any person who experienced out-of-home care in Australia in the last century, regardless of whether they experienced care in a State, religious or charitable institution; or indeed in some other setting, such as foster care.[1] The term 'care leavers' as it is used in the following chapter thus may include, as relevant, former child migrants and members of the stolen generation.[2]

National leadership role required from the Commonwealth

Lost Innocents

2.3 The former Commonwealth government issued its response to the *Lost Innocents* report on 14 May 2002. In the preamble to its response the government welcomed the report as a 'sensitive, comprehensive and insightful appraisal of child migration schemes and child migrants' experiences in Australia'; and acknowledged that the legacy of the child migration schemes must be addressed. Recognising the

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1 The second report of the Senate Community Affairs References Committee into children in institutional or out-of-home care, *Protecting Vulnerable Children: A National Challenge*, dealt specifically with foster care. The main focus of that report was on contemporary foster care issues, including children in care with disabilities and the contemporary government and legal framework for child welfare and protection. The report is available at http://www.aph.gov.au/senate/committee/clac_ctte/completed_inquiries/2004-07/inst_care/report2/index.htm.

2 The major inquiry into the stolen generation was conducted by the Human Rights and Equal Opportunity Commission (HREOC) in 1997. The findings are reported in the inquiry's report, *Bringing Them Home*, available at http://www.hreoc.gov.au/social_justice/bth_report/index.html.

varied needs of former child migrants, and that many had suffered long-lasting effects from their experiences as child migrants, the government emphasised that the focus of its response to *Lost Innocents* was on 'practical support and assistance'.[3]

2.4 The Child Migrants Trust (CMT) commended the former Commonwealth government for supporting the holding of the original inquiry into child migration. However, CMT believed that the government's response was 'too half-hearted in tone and spirit' and 'did not seek to assume its full and proper responsibility for the many adverse consequences' of what were federal immigration policies.[4] In particular, the government had not adequately recognised the transnational nature of child migration issues, which required international coordination with the originating countries for child migrants in Australia, namely Britain and Malta.

2.5 Mr Norman Johnston, President, International Association of Former Child Migrants and Their Families (IAFCMF), called for the current federal government to formally respond to the original recommendations of the *Lost Innocents* report:

> It would give us a level or a measure of how far the present government is prepared to take our cause. What needs to be put to the committee is the level of grief that is still being suffered today by hundreds of former child migrants.[5]

2.6 Although the CMT acknowledged sustained benefits arising from the Committee's original inquiry, it felt that the inadequate responses and interest amounted to a lost opportunity for a 'more considered, compassionate [and] comprehensive approach to policy development in related areas, such as child trafficking and international adoptions'. A particular example was Australia's failure to send government representation to the International Congress on Child Migration in 2002.[6]

Forgotten Australians

2.7 The former Commonwealth government issued its response to the *Forgotten Australians* report on 10 November 2005. In the preamble to its response the government welcomed the Committee's report as a 'sensitive, insightful and moving revelation of the experiences of many children in the Australian institutional care system'; and, importantly, acknowledged that the neglect and abuse experienced by children placed in institutional care 'is a matter of shame for this country'. The

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3 Commonwealth government, 'Commonwealth government response to *Lost Innocents: Righting the Record*, May 2002, p. 1, available at http://www.aph.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/recs/gov_resp_cm.pdf.

4 *Submission 23*, p. 8.

5 *Proof Committee Hansard*, 8 April 2009, p. 4.

6 *Submission 23*, p. 5.

response also accepted that the Commonwealth government must play a vital role in formulating national responses to the issues outlined in the report:

> We look forward to working with these agencies cooperatively and to continue discussing these recommendations with state and territory governments where a united response is appropriate.[7]

2.8 The majority of submitters and witnesses expressed disappointment at the implementation of the *Forgotten Australians* recommendations to date.[8] The government response was consistently described as a failure of national leadership, in particular due to the rejection of numerous recommendations on the grounds that they were the responsibility of the States and/or the institutions in which care leavers were resident. Mr Frank Golding, Vice-President, Care Leavers Australia Network (CLAN), observed:

> When it did respond, the government essentially passed the buck to the states, churches and charities.[9]

2.9 The Alliance for Forgotten Australians (AFA) stated that, given the Commonwealth's acknowledgement of the national character of the issues pertaining to care leavers, it was 'particularly disappointing' that it had refused to take the lead on recommendations where a national approach 'would be appropriate and effect fair outcomes':

> The repeated refrain of: 'This is a matter for state and territory governments, churches and agencies to consider' is frustrating for those who believe the Australian Government has a responsibility to coordinate, cajole and cooperate with those State and Territory Governments in the national interest.[10]

2.10 The Committee notes that the government's numerous refusals to act on the recommendations are based on a strict application of the historical Commonwealth-State legal responsibilities for child protection. As noted in the original report:

> Historically, legislative responsibility for child protection in Australia has rested primarily with the States and Territories – there is no legislative

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7 Commonwealth government, 'Government response to *Forgotten Australians: a report on Australians who experienced institutional or out-of-home care as children*, November 2005, p. 1, available at http://www.aph.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/recs/gov_resp_fa.pdf.

8 The full list of government responses are contained in Chapter 3 (*Lost Innocents*) and Chapter 4 (*Forgotten Australians*); and may be accessed through the committee's website at http://www.aph.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/index.htm

9 *Proof Committee Hansard*, 30 March 2009, p. 14.

10 *Submission 10*, p. 3.

> power over children or child protection in the Commonwealth constitution.[11]

2.11 The submission of the Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), while noting the need for collaboration across all jurisdictions, again drew attention to the primary legal responsibility of the States for child protection, as well as any consequent need for services:

> Given statutory responsibility for this issue, it is important to note that each jurisdiction has developed, or continues to develop, individual policies and service delivery processes.[12]

2.12 However, beyond such narrow or strictly legal considerations, submitters and witnesses identified a number of substantive grounds on which they believed the Commonwealth responsibility to past care leavers is soundly based. First, Commonwealth government funds, through child endowment payments, had supported the operation of many institutions. Mr Graham Hercus, After Care Support, United Protestant Association of New South Wales, commented:

> The federal child endowment money was pretty much what enabled many of the homes to keep functioning. They depended very heavily on that federal funding to operate…It is disingenuous for the federal government to say, 'We had no part in this,' because in fact it did.[13]

2.13 The inadequacy of such funding may also have contributed directly to the poor conditions in so many institutions:

> It can be argued quite cogently that it was the issue of lack of adequate (State and Federal) funding in the first place that led to some of the more obvious discrepancies in the provision of food, clothing, housing and, especially, staffing levels in the homes.[14]

2.14 Second, the Commonwealth was seen as having direct responsibility for the broader political and social environment that likely saw a great many children find their way into institutional care settings, particularly Australia's involvement in World War II. The AFA observed:

> Many of the children were in these institutions because their parents were, or had been, in the armed forces. They may have lost parent/s, through death or serious injury; many children also had parents who had returned from overseas war service with untreated post-traumatic stress disorder, unable to care for their children. [15]

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11 *Forgotten Australians*, p. 171.

12 *Submission 4*, p. 1.

13 *Proof Committee Hansard*, 7 April 2009, p. 21.

14 Association of Child Welfare Agencies, *Submission 28*, p. 3.

15 *Submission 10*, p. 5.

2.15 Mr Golding cited evidence supporting this view:

> …surveys show (e.g. CLAN 2007) that up to half of all fathers of children who subsequently grew up in 'care' served in the Australian armed forces. Many lost their father through death or serious incapacity or found that their mother left on her own was unable to care for them; and many children had parents who returned from service overseas wars with untreated post-traumatic stress disorder and other debilitating conditions. Service for the nation by parents undoubtedly created unintended harmful consequences for families, and countless children were separated from their fragmented families as a result of war.[16]

2.16 Third, witnesses considered that the Commonwealth has an 'overarching responsibility' for the harm suffered by children in care due to having funded State governments to administer child protection systems and by virtue of its national leadership role.[17] It was observed that in both respects the Commonwealth is not routinely restricted to areas for which it has strict financial or constitutional responsibility:

> This jurisdictional rationale for failure to act…[is] unconvincing. The Commonwealth Government routinely works with the States and Territories on matters outside its jurisdiction. It does provide leadership and resources in areas where it has no formal powers but sees the need for national action. School education is an obvious example. The current Government's leadership towards a National Framework for Protecting Australia's Children is an even more pertinent example. Led by the Commonwealth, all State and Territory Governments are heavily involved in putting the Framework together.[18]

2.17 Further, over time there had been an expansion of the federal spheres of influence and activity. Equally, the primacy of States' rights or sovereignty had diminished as Australia increasingly pursued national approaches to issues through the auspices of the Commonwealth government:

> …the reality is that politics have changed very significantly in Australia in that in the 1970s and 1980s states' rights was the big issue—states managed their own patch very tightly and were careful about that. Since then, we have seen a significant alteration in the whole balance of funding and of priorities across the nation, so we now have the federal government involved in the provision of health, education and a whole lot of other services that they previously were totally uninvolved in.[19]

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16 *Submission 16*, p. 3.

17 AFA, *Submission 10*, p. 5; Micah Projects Inc., *Submission 33*, p. 2.

18 Mr Frank Golding, *Submission 16*, p. 2.

19 Mr Graham Hercus, After Care Support, United Protestant Association of New South Wales, *Proof Committee Hansard*, 7 April 2009, p. 23.

2.18 Many witnesses expressed frustration at cooperative national responses and strategies being undermined by the continued reliance of both State and Commonwealth governments on jurisdictional arguments to deny any responsibility for implementing the recommendations of *Forgotten Australians*. Professor Maria Harries, Associate Member, AFA, commented:

> …reading some of the submissions what struck me is this relentless, 'No, that's a state responsibility.' 'No, that's a Commonwealth responsibility.' I think we have to move beyond that.[20]

2.19 Mr Golding observed that 'social and moral obligations can't be quarantined by legal boundaries'.[21]

2.20 Ms Caroline Carroll, Senior Forgotten Australians Worker, Victorian Adoption Network for Information and Self Help (VANISH), called upon the Commonwealth to demonstrate national leadership and 'move beyond the political' in implementing the recommendations of the *Forgotten Australians* report:

> We need our current federal government, which has been applauded on the international stage for its apology to our Aboriginal people and its commitment to and leadership on the environment and economy, to provide a national response and blueprint towards recompense and healing of forgotten Australians.[22]

2.21 In addition to acknowledging the Commonwealth's responsibility to work collaboratively with all stakeholders 'to further progress the report's recommendations',[23] Ms Allyson Essex, Branch Manager, FaHCSIA, advised:

> There is a range of processes within government that are used to encourage progress on particular issues. We have regular discussions with our state and territory colleagues about these issues.[24]

2.22 Further, FaHCSIA indicated that the current government 'has made further responses to the Forgotten Australians in several areas and has indicated its commitment to a healing process';[25] and is re-considering the responses of the former government:

> The Government is in the process of examining previous responses to the report's recommendations, to determine areas in which it is appropriate to make improvements and how improvements can be implemented. Given the need to do more, the Government is currently working with key stakeholder

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20 *Proof Committee Hansard*, 31 March 2009, p. 35.

21 *Proof Committee Hansard*, 30 March 2009, p. 14.

22 *Proof Committee Hansard*, 30 March 2009, pp 61, 63.

23 *Submission 4*, p. 2.

24 *Proof Committee Hansard*, 8 April 2009, p. 63.

25 *Submission 4*, p. 1.

groups and several Government members, in both the Senate and the House, to progress matters further.[26]

2.23 The Historical Abuse Network (HAN) commented:

It was with great relief that with a new government the recommendations are once again to be examined…[27]

National and State apologies

Lost Innocents Recommendation 30

That the Commonwealth Government issue a formal statement acknowledging that its predecessors' promotion of the Child Migration schemes, that resulted in the removal of so many British and Maltese children to Australia, was wrong; and that the statement express deep sorrow and regret for the psychological, social and economic harm caused to the children, and the hurt and distress suffered by the children, at the hands of those who were in charge of them, particularly the children who were victims of abuse and assault.

Government Response

The government regrets the injustices and suffering that some child migrants may have experienced as a result of past practices in relation to child migration. The government supports the Committee's emphasis on moving forward positively to concentrate on improving support and assistance for those former child migrants who may need or want such services, as noted throughout the recommendations.

Implementation

2.24 *Lost Innocents* concluded that it was important for former child migrants to receive formal public acknowledgments, by governments and agencies, of their experiences as child migrants. The Committee considered that such statements would serve to recognise past wrongs and to enable governments and receiving agencies to 'accept their responsibilities for past actions involving the poor treatment of child migrants'.[28] The Committee felt that such recognition could assist former child migrants, as much as is possible, to resolve the emotional and psychological legacies arising from their experiences as child migrants.

2.25 The Committee notes that, notwithstanding the expression of regret contained in the government's response, the Commonwealth government has failed to issue a

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26 *Submission 4*, p. 1.

27 PowerPoint presentation, Brisbane, 6 April; 2009, available at http://www.aph.gov.au/senate/committee/clac_ctte/recs_lost_innocents_forgotten_aust_rpts/submissions/sublist.htm.

28 *Lost Innocents*, p. 238.

formal statement containing the acknowledgments and expressions outlined in recommendation 30.

Lost Innocents Recommendation 31

That all State Governments and receiving agencies, that have not already done so, issue formal statements similar to those issued by the Western Australian and Queensland Governments and the Catholic Church and associated religious orders to former child migrants and their families for their respective roles in the child migration schemes.

Government response

The Commonwealth government urges state governments and receiving agencies to consider the importance of this recommendation, in recognition of the hurt and distress that may have been experienced by some former child migrants as a result of former migration and institutional practices.

Implementation

State governments

2.26 Evidence to the inquiry indicated that few States have issued specific statements similar to that issued by the Western Australian government—at least at the level of a statement made or motion put in a State parliament. However, the CMT advised that all of the State memorials to former child migrants, established in accordance with *Lost Innocents* recommendation 32 (discussed in Chapter 3), were launched with an accompanying 'statement of regret, if not a full apology'.[29]

2.27 A number of States have issued more general apologies to people who experienced abuse and neglect in care, similar to the Queensland statement referred to in recommendation 31. The text of the Queensland statement is reproduced below under the discussion of responses to *Forgotten Australians* recommendation 1.

2.28 Western Australia issued its statement acknowledging former child migrants in the form of a motion passed in the WA legislative assembly on 13 August 1998. The motion was:

> That this House apologise to the former child migrants on behalf of all Western Australians for the past policies that led to their forced migration and the subsequent maltreatment so many experienced, and express deep regret at the hurt and distress that this caused.[30]

2.29 New South Wales, South Australia, Tasmania and Victoria have all issued apologies to people who suffered abuse and/or neglect in State institutions, which

29 *Submission 23*, p. 2.

30 Department for Child Protection (WA), *Submission 11*, p. 10.

would include significant numbers of former child migrants. However, none of these could be said to be specifically directed to 'former child migrants and their families'.

2.30 South Australia advised that it had also previously made a public statement specifically acknowledging former child migrants:

> In February 2001, the Hon Dean Brown MP, then Minister for Human Services made a public statement acknowledging the history of the South Australian British Child Migrants.[31]

2.31 The public statement in part read:

> Many of the former child migrants tell us that they suffered greatly as a result of their being sent to Australia.
>
> Many have told of experiences of physical, emotional and sexual abuse at the hands of people in whose care they were placed.
>
> Many say they were told that they were orphans.
>
> Many say they were launched into adulthood without formal documents, such as birth certificates or citizenship papers and without any idea of their heritage.
>
> The resultant pain for the former child migrants is said to be enormous and has posed life-long challenges to them and their children and loved ones.
>
> The Government of SA wishes to acknowledge that these experiences, though not intended by the schemes, may have occurred and been suffered by the child migrants.
>
> At the same time, many of the former child migrants made an enormous contribution to the State of South Australia and have since demonstrated enormous courage and faith as they have worked to put the past behind them and move into a future with hope and optimism.
>
> We trust that the Government can move positively into the future with them and play a role in assisting and supporting the former child migrants and improving services for them.[32]

Receiving agencies

2.32 Beyond the apologies and acknowledgements made by the Catholic Church, as outlined in *Lost Innocents*,[33] the Committee received no evidence of further action, or inaction, by receiving agencies on this recommendation.

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31 *Submission 30*, p. 6.

32 *Lost Innocents*, p. 332.

33 See *Lost Innocents*, pp 229-231.

Forgotten Australians Recommendation 1

That the Commonwealth Government issue a formal statement acknowledging, on behalf of the nation, the hurt and distress suffered by many children in institutional care, particularly the children who were victims of abuse and assault; and apologising for the harm caused to these children.

Government response

The Australian Government has great sympathy for those children who suffered hurt and distress in institutional care. While it would not be appropriate for the Australian Government to issue an apology for a matter for which it does not have responsibility, the Government expresses its sincere regret that these children were placed in situations where they did not receive the care they deserved. The Government appreciates that many of these unfortunate Australians and their families continue to experience the serious personal consequences of their experiences of abuse, assault and abandonment.

The Government urges state, territory and local governments, churches, institutions and community organisations to acknowledge their responsibilities and to take action, where appropriate, to alleviate the suffering of those who were in their care. In particular, the Government urges a collaborative approach to assistance, through improved information access as well as practical support for care leavers.

Implementation

2.33 In keeping with its response to recommendation 1, the Commonwealth government has not issued a formal statement acknowledging the hurt and distress suffered by, and apologising for the harm caused to, children in institutional care.

2.34 Submitters and witnesses identified a number of issues in relation to this recommendation.

Responsibility and leadership

2.35 The Committee's recommendation for an apology by the Commonwealth government on behalf of Australia arose from the conclusion that there existed a 'moral obligation' to do so. Much of the evidence received emphasised the continuing moral imperative of an apology for the Forgotten Australians. Mr James Luthy, who identified himself as a Forgotten Australian, submitted:

> This is also a moral issue and sadly the previous government seemed to lack the moral fibre or will to acknowledge that wrongs had been committed. As a Forgotten Australian I am asking that the Government assume some form of moral and ethical leadership and implement this recommendation.[34]

34 *Submission 36,* p. 1.

2.36 Beyond moral questions, the practical responsibility of the Commonwealth government was also raised. Ms Rebecca Ketton, Manager, Aftercare Resources Centre, Relationships Australia (Queensland), noted:

> …the Australian states and territories were responsible for putting in place their various child protection systems. The Commonwealth government funded them to do so and, therefore, holds accountability. An apology acknowledges that something wrong has happened and that something needs to change.[35]

2.37 *Forgotten Australians* also emphasised the powerful symbolism of an apology as a public acknowledgment of the experiences of Forgotten Australians.[36] Submitters and witnesses consistently expressed disappointment at the lack of a national apology delivered through the Commonwealth, and identified this failure as a lack of leadership. Ms Michele Greaves, for example, commented:

> It is important that the Commonwealth government leads the way for our nation, because our nation needs to hear what has happened to us. We can only heal when we hear from the government, from our nation, that you are sorry for what has happened...[37]

2.38 Similarly, Mr Laurie Humphreys, WA Representative, AFA, commented:

> The only thing I would like an apology to do is to acknowledge that it happened. That is a big thing. I have given a few talks over the last few years and people just do not believe it or it is hard for them to comprehend. The word 'sorry' after all these years does not excite me; just the apology for it having happened; saying, 'We did it and we apologise.'[38]

Continuing injustice

2.39 *Forgotten Australians* recognised that an apology would be an important part of the 'healing and reconciliation process for many care leavers'.[39] The Committee heard that the refusal of the Commonwealth government to deliver an apology had, accordingly, contributed to ongoing hurt and distress for Forgotten Australians. For many people, the refusal had denied them an opportunity for some resolution of a difficult past. Mr Luthy observed:

> The giving of an apology will give to many people closure from a past accentuated by abuse, horror, and feelings of worthlessness.[40]

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35 *Proof Committee Hansard*, 6 April 2009, p. 38.

36 *Forgotten Australians*, p. 197.

37 Private capacity, *Proof Committee Hansard*, 30 March 2009, p. 45.

38 *Proof Committee Hansard*, 31 March 2009, p. 45.

39 *Forgotten Australians*, p. 197.

40 *Submission 36*, p. 1.

2.40 Many Forgotten Australians were also experiencing a keener sense of injustice in light of the apology delivered to the stolen generations—Indigenous people removed from their families and placed in out-of-home care throughout the 19th and 20th centuries—on 13 February 2008. While there was consistent support for this act, it had only accentuated the Commonwealth's refusal to offer an apology for broadly comparable historical abuse and neglect. Mr Johnston submitted:

> On 13 February 2008 the world changed in relation to historical abuse, when the Prime Minister apologised on behalf of the government and the people of Australia to the stolen generation…We listened very carefully to the Prime Minister's sentiments. This was recognition, indeed, and long awaited. Our pain, suffering and injustice continues to this very day. We feel the degree of discrimination.[41]

2.41 Mr Golding also highlighted the effect on care leavers of the apology to the stolen generations:

> For many…[the apology] brought tears that there had been an acknowledgement for those people, but it also brought tears of the other sort: 'Why not us?'[42]

2.42 Given the similarities in the experiences of the stolen generations and the care leavers who were the subject of the *Forgotten Australians* report, Mr Andrew Murray, the former federal Senator who was instrumental in establishing the Committee's original inquiry, observed:

> The committee needs to ask the federal government the question being asked by white children who were harmed in care: where is their apology? Like the Indigenous children, many non-Indigenous children were taken from their country and stolen from their families. Like the Indigenous children, they too were sexually assaulted. They too were physically assaulted…So why does one section of the population get an apology but not the other? Why is there racial discrimination? Why does one group matter less than the other? That is the question to be asked loudly.[43]

Lessons from the apology to the stolen generations

2.43 Apart from contrasting the lack of an apology to Forgotten Australians, the apology to the stolen generations was considered by most as both a symbolically potent and practically meaningful event. Further, it was regarded as having been delivered sensitively in an appropriate setting and context.

2.44 Although there was and has been no undertaking to establish a reparations or redress scheme for the stolen generations, it was noted by some that the apology was

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41 *Proof Committee Hansard*, 8 April 2009, p. 1.

42 *Proof Committee Hansard*, 30 March 2009, p. 21.

43 *Proof Committee Hansard*, 31 March 2009, p. 20.

accompanied by significant undertakings to improve the material, physical and psychological wellbeing of Indigenous Australians more broadly.

2.45 Given this, many submitters and witnesses called for an apology to Forgotten Australians to be closely modelled on the apology to the stolen generations. Ms Coleen Clare, Chief Executive Officer, Centre for Excellence in Child and Family Welfare (CECFW), for example, noted:

> Were a Commonwealth apology to be made—and we hope it will be—I think it could follow the stolen generations model, which was very open and embracing.[44]

2.46 The CMT submission states:

> Many former Child Migrants were very impressed with the Prime Minster's historic apology in 2008 to the Stolen Generations. This was viewed as a positive example of a full and generous apology with its much more appropriate tone and content. Indeed, many consider that this changed the moral and political landscape of Government attempts to address past wrongs.[45]

Should an apology be linked to compensation or redress?

2.47 The Committee heard various and competing arguments about the need for a national apology to be formally tied to the giving of compensation or, more particularly, the establishment of some form of redress scheme. Mr Hercus felt that an apology would lack substantial meaning if not offered in the context of a broader commitment to practical measures:

> …a federal apology needs to be accompanied by significant action. Otherwise, it will lose its value. In the case of the stolen generations, the apology was accompanied by significant action and was seen by the public as being part of a bigger picture, and that is why it gained such wide acceptance.[46]

2.48 Mrs Gloria Lovely, Historical Abuse Network (HAN), stated:

> …from my point of view…[compensation] goes hand in hand [with an apology]. Actions speak louder than words.[47]

2.49 However, others felt that the issues of an apology and reparations should not be linked. Dr Debra Rosser, CBERS Consultancy, expressed the view:

> …it would be a wonderful thing for the nation to make an apology. I would be reluctant to tie that apology to any particular reparations scheme.[48]

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44 *Proof Committee Hansard,* 30 March 2009, p. 40.

45 *Submission 23,* p. 8.

46 *Proof Committee Hansard,* 7 April 2009, p. 37.

47 *Proof Committee Hansard,* 6 April 2009, p. 18.

2.50 Mr Andrew Murray emphasised that the purpose of an apology is intrinsically emotional—that is, to acknowledge the wrongs committed—and therefore serves a distinct purpose:

> In our personal lives and in our national lives the intangibles—the emotional expression of the relationship between governments and people in authority and the people—have to be respected. What an apology does is say, 'We did wrong by you. We didn't exercise a duty of care and we're sorry for that.' The rest is completely separate.[49]

2.51 Further, the linking of an apology with the issue of reparations could undermine the commitment of a Commonwealth government to deliver a national apology:

> …linking the two has always been a false link. I have always thought the refusal to offer a national apology was, at its best, based on a false premise—and that is that it would open the national government to major compensation claims—and, at its worst, was simply a reason not to do it.[50]

2.52 Ms Annette Michaux, General Manager, Social Policy and Research, Benevolent Society, was also concerned that the potential for an apology could be undermined by the insistence that it be accompanied by undertakings for reparations:

> Tying…[a national reparation scheme] to an apology might mean the apology does not happen, which would concern me, so I do not think they should be tied together.[51]

Forgotten Australians Recommendation 2

That all State Governments and Churches and agencies, that have not already done so, issue formal statements acknowledging their role in the administration of institutional care arrangements; and apologising for the physical, psychological and social harm caused to the children, and the hurt and distress suffered by the children at the hands of those who were in charge of them, particularly the children who were victims of abuse and assault.

Government response

This is a matter for state and territory governments, churches and agencies to consider.

48 *Proof Committee Hansard,* 31 March 2009, p. 15.

49 *Proof Committee Hansard,* 31 March 2009, p. 22.

50 *Proof Committee Hansard,* 31 March 2009, p. 22.

51 *Proof Committee Hansard,* 7 April 2009, p. 37.

Implementation

2.53 Responses to this recommendation may be examined in light of the *Forgotten Australians* report's consideration of the elements of a meaningful apology in the context of victims of institutional abuse. These were:

- acknowledgment of the wrong done or naming the offence;
- accepting responsibility for the wrong that was done;
- the expression of sincere regret and profound remorse;
- the assurance or promise that the wrong done will not recur; and
- reparation through concrete measures.[52]

State governments

New South Wales

2.54 The NSW government submission advised:

> On 23 June 2005, the NSW Minister for Community Services apologised on behalf of the NSW Government to those children who suffered physical, psychological or social harm or distress as a result of their experiences in institutional care. The NSW Government recognises that an apology is an important step in the journey of healing for people who suffered neglect or abuse in institutional care…[53]

2.55 The NSW apology took the form of an answer to a question without notice in the NSW Legislative Assembly. The majority of the answer given by the Minister for Community Services outlined the findings of the *Forgotten Australians* report. The answer then concluded with the formal apology, as follows:

> The Government of New South Wales apologises for any physical, psychological and social harm caused to the children, and any hurt and distress experienced by them while in the care of the State. We make this apology in the hope that it may help the process of healing. The New South Wales Government is strongly committed to supporting families to reduce the need for children to be in care. Where children and young people are placed in care, the Government will assist with the services available to them. We hope that this apology will be accepted in the spirit in which it is made and that the New South Wales Government, our community partners and the community at large can continue to work together to build a better and safer place in which our children can live, grow and flourish. We know we need to listen to these people and work with them to make this a reality. I thank the House for the opportunity to make this important and much overdue statement. I hope this apology, along with the other measures that I

52 *Forgotten Australians*, p. 192.

53 *Submission 24*, p. 1.

> have outlined today, will help bring healing and help to those young Australians who, at a vulnerable time in their lives, were let down by the system.

2.56 The minister's statement was immediately followed by an opposition point of order which complained that, by not providing the opposition with the opportunity to offer its support for the apology, the government had not approached the giving of the apology in a bipartisan spirit.

2.57 Many groups were highly critical of the planning and occasion around the NSW apology. The Positive Justice Centre submitted:

> …[the NSW apology] was dealt with in a ham fisted and abusive fashion…Unlike other states who issued an apology, where numerous members of both houses spoke at great length, and the Parliaments entertained large numbers of guests, NSW chose to issue its apology by Dorothy Dixer and without fanfare or ceremony.[54]

2.58 Mr Hercus also commented on the lack of ceremony and occasion:

> An apology is important symbolism, and the symbolism was completely lost in the New South Wales case. It was a hole in the wall, late at night, with nobody there. There was a minimum amount of attention and publicity. It came across as something that was being done so as to appear to have been doing the right thing and for no other reason. The symbolism, unless it is accompanied by real action and activity, remains that. It remains a puff of air.[55]

2.59 The Healing Way for Forgotten Australians complained that NSW had not included care leaver groups in the occasion:

> …[We acknowledge] this apology with disappointment. We are aware that two representatives from CLAN were invited to attend the apology; no other groups seem to be made aware that an official apology would take place.[56]

2.60 Similarly, Ms Michaux commented:

> In the New South Wales apology…we missed out on an opportunity to have a ceremony, a coming together and a sharing of the grief, an opportunity to start to heal. So I think it was disappointing…the way it was done, without that opportunity for people to gather.[57]

2.61 Apart form the shortcomings of the ceremony, Mr Golding reported significant concerns over the substance of the NSW apology:

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54 *Submission 5*, p. 1.

55 *Proof Committee Hansard*, 7 April 2009, p. 37.

56 *Submission 25*, p. 3.

57 *Proof Committee Hansard*, 7 April 2009, p. 37.

> …former State wards were bitterly disappointed with the wording and spirit of the apology which has been described as 'superficial, succinct and without compassion'.[58]

2.62 On this last point, the Committee notes that the NSW apology appears to lack a number of the elements of a meaningful apology as outlined above. The apology:

- uses indirect language to name the offences it purports to acknowledge, referring to 'any physical, psychological and social harm' rather than using more direct terms such as 'abuse' and 'neglect';
- fails to explicitly accept responsibility for the wrong that was done;
- provides a bland assertion of apology rather than an expression of sincere regret or sincere remorse;
- offers no assurance or promise that the wrong done will not recur, referring only in fairly general and rhetorical terms to building a 'better and safer place' for children in care; and
- in relation to offering reparation with concrete measures, avoids any direct identification of past care leaver or particular undertakings or measures, stating only that 'where children…are placed in care' the government 'will assist with the services available'.

2.63 Ms Leonie Sheedy, President, CLAN, advised that the NSW government, in recognition of the issues outlined, had undertaken to issue a new apology:

> …[CLAN] have met with the current minister, Linda Burney, and she has committed to a second apology, so there is an acknowledgement that they need to do it better, and they will be doing that.[59]

Queensland

2.64 The Committee notes that on August 25 1999 the Queensland government, together with representatives of religious authorities including the Catholic and Anglican churches and the Salvation Army, issued a formal apology for instances of past abuse and neglect in Queensland institutions. The apology was given in direct response to the findings of the State's Commission of Inquiry into Abuse of Children in Queensland Institutions (the Forde Inquiry), which reported on 31 May 1999.

2.65 The apology was as follows:

> We the government and churches together welcome the report of the Forde Commission of Inquiry into Abuse of Children in Queensland Institutions.
>
> We acknowledge that there have been failures with respect to the children entrusted to our care, despite all the good the Institutions did in the light of

58 *Submission 16*, p. 7, citing Gregory Smith, 'The Harm Done: Towards Acknowledgment and Healing in New South Wales', The Bellingen Institute, 2007.

59 *Proof Committee Hansard*, 7 April 2009, p. 44.

> their day. The result has been a system in which some children have suffered maltreatment, and their social, emotional, and physical needs have been neglected.
>
> We sincerely apologise to all those people who suffered in any way while resident in our facilities, and express deep sorrow and regret at the hurt and distress suffered by those who were victims of abuse.
>
> We accept the finding of the Forde Inquiry that government under-funding and consequent under-resourcing was a significant factor in the failure to provide adequate services to children in care.
>
> We are committed to establishing and continuing dialogue with victims of abuse in institutions to discuss the basis for providing appropriate responses. We acknowledge that discussions are well advanced between some parties.
>
> We are committed to working together with victims of abuse in institutions to ensure the provision of appropriately coordinated services through the establishment of a 'one stop shop', as recommended by the Forde Inquiry. This initiative will be integrated with church and government run services and processes for bringing about reconciliation with victims of abuse in institutions. The focus will be on providing victims with the most effective path to healing. We are committed to continuing to provide such services as long as they are needed.
>
> We recognise the value of formal reconciliation experiences in healing the hurt some have suffered, and undertake to plan these in consultation with former residents.
>
> We are committed to doing all we reasonably can to ensure that children in our care are not subject to abuse and neglect. Further, we are committed to ongoing review and improvement of our services to children and families.[60]

2.66 Ms Ketton observed that the apology had been well received by many care leavers:

> Many former residents in Queensland have expressed their gratitude for the apology made by Peter Beattie, the Premier at the time, and the acknowledgment that it brought them.[61]

2.67 However, some felt that there had been a lack of consultation over the apology. Ms Karyn Walsh, Coordinator, Esther Centre, commented:

> The criticism of the Queensland apology was that it did not involve dialogue. Any form of apology requires some dialogue with people who were forgotten Australian or who were in care.

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60 Department of Communities (Queensland) website, 'Forde Inquiry into abuse of children in Queensland institutions', accessed 29 May 2009 at http://www.communities.qld.gov.au/community/redress-scheme/forde-inquiry.html.

61 *Proof Committee Hansard*, 6 April 2009, p. 38.

> …there was no engagement with people who have experienced the abuse and harm…Certainly the Queensland government would say that it used the experiences and stories of the Forde inquiry to inform that apology, but people still felt there could have been greater emphasis on engaging forgotten Australians in what the apology means…[62]

2.68 Further, there was concern that the apology did not include or apply to the full range of people who experienced out-of-home care:

> In relation to the scope of the apology, the Queensland apology was in relation to the Forde inquiry. Foster care was not part of the Forde inquiry.[63]

2.69 Mrs Lana Syed-Waasdorp, HAN, felt that the substance of the apology was lacking:

> A lot of people were not happy with that one as it really did not explain anything about the apology. It was just very fine and simple words, but deep down it had nothing really heartfelt in it.[64]

2.70 On this final point, the Committee notes that the Queensland apology contained many of the elements of a meaningful apology as identified above. However, the criticism can be made that it was imprecise in naming the wrong it apologises for, referring only to 'maltreatment'. And, in referring to the 'good the institutions did in the light of their day,' it contains strong echoes of the justification—commonly offered in the past—that the historical abuse and neglect of children should be understood in the context of the prevailing norms of the day. This argument was addressed in the Committee's original report, which clearly showed that the behaviour in question was criminal, regardless of the era in which it occurred.[65]

South Australia

2.71 The Committee notes that on 17 June 2008 South Australia issued a formal apology to those who suffered or witnessed abuse or neglect in State care. The apology took the form of a motion moved by the Premier, the Hon. Mike Rann, in the State legislative assembly; the leader of the opposition also spoke to the motion. It read:

> I move:
>
> That this parliament recognises the abuses of some of those who grew up in state care and the impact that this has had on their lives.

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62 *Proof Committee Hansard*, 6 April 2009, p. 19.

63 *Proof Committee Hansard*, 6 April 2009, p. 21.

64 *Proof Committee Hansard*, 6 April 2009, p. 18.

65 *Forgotten Australians*, p. 186.

> Only those who have been subject to this kind of abuse or neglect will ever be able to fully understand what it means to have experienced these abhorrent acts.
>
> For many of these people, governments of any persuasion were not to be trusted. Yet many have overcome this mistrust.
>
> You have been listened to and believed and this parliament now commits itself to righting the wrongs of the past.
>
> We recognise that the majority of carers have been, and still are, decent honourable people who continue to open their hearts to care for vulnerable children.
>
> We thank those South Australians for their compassion and care.
>
> We also acknowledge that some have abused the trust placed in them as carers. They have preyed upon our children.
>
> We acknowledge those courageous people who opened up their own wounds to ensure that we as a state could k now the extent of these abuses.
>
> We accept that some children who were placed in the care of government and church institutions suffered abuse.
>
> We accept these children were hurt.
>
> We accept they were hurt through no fault of their own.
>
> We acknowledge this truth.
>
> We acknowledge that in the past the state has not protected some of its most vulnerable.
>
> By this apology we express regret for the pain that has been suffered by so many.
>
> To all those who experienced abuse in state care, we are sorry.
>
> To those who witnessed these abuses, we are sorry.
>
> To those who were not believed when trying to report these abuses we are sorry.
>
> For the pain shared by loved ones, husbands and wives, partners, brothers and sisters, parents and, importantly, their children, we are sorry.
>
> We commit this parliament to be ever vigilant in its pursuit of those who abuse children.
>
> And we commit this parliament to help people overcome this, until now, untold chapter in our state's history.[66]

2.72 Following the parliamentary motion, a ceremony for care leavers was held at Old Parliament House (SA). The South Australian government submission explains:

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66 Parliament of South Australia website, *House of Assembly Hansard*, 17 June 2008, http://www.parliament.sa.gov.au/Hansard/DailyHansard.htm, accessed 1 June 2009.

> …[At this ceremony the] Government and Churches (Archbishop of Adelaide, President, Lutheran Church, Chairperson of Uniting Church SA and Auxiliary Bishop of the Catholic Archdiocese) signed a formal apology parchment. One hundred people who were abused in State care attended the apology ceremony…met with the signatories and Ministers of Parliament, received a plant to commemorate the occasion and were later sent laminated copies of the apology parchment.[67]

2.73 The wording of the apology parchment was slightly different to the parliamentary motion. It read:

> We the Government of South Australia and the Churches recognize that some children and young people who were placed in our care suffered abuse that has impacted on their lives. This should never have happened.
>
> We are sorry and we express deep regret for the pain and hurt that they experienced through no fault of their own.
>
> We acknowledge that in the past some carers and others who have worked in the area have abused the trust what was placed in them.
>
> We acknowledge that the policies and practices in the last century did have a detrimental effect on some who grew up in State care.
>
> To all those who experienced abuse in State care, we are sorry.
>
> To those who witnessed these abuses, we say sorry.
>
> To those who were not believed, when trying to report these abuses, we say sorry.
>
> We are sorry for the pain shared by loved ones, husbands and wives, partners, brothers and sisters, parents, and importantly, their children.
>
> Our apology is given in a spirit of reconciliation and healing and with our commitment to contribute toward a child safe environment in our Government, our churches and the broader community.
>
> We commit to do all that we reasonably can to ensure that children in our care are not subject to abuse and that those who have abused are brought to justice.[68]

2.74 While the AFA described the South Australian apology as well-worded',[69] others criticised aspects of the ceremony. Mr Ki Meekins submitted:

> State Wards were told yes the Premier will make an apology, but you will have to go next door, letting church and other dignitaries' take your seat in

67 *Submission 30*, p. 2.

68 CLAN website, 'Shared government and church apology', http://www.clan.org.au/apology_details.php?apology_id=3, accessed 1June 2009.

69 *Proof Committee Hansard*, 30 March 2009, p. 63.

> Parliament, there isn't enough room inside Parliament for every body. What a further insult.[70]

2.75 The committee notes that the entirety of the South Australian apology contained the elements of a meaningful apology as identified above.

Tasmania

The submission from the Tasmanian government advised:

> In December 2004, in State Parliament, the Premier of Tasmania issued a formal apology to those people who had been in State care.[71]

2.76 The apology was delivered on 17 May 2005 in the form of a motion moved by the then Premier Mr Paul Lennon in the Tasmanian Legislative Assembly; the leaders of the opposition and minor parties and a number of other members also spoke to the motion. It read:

> I move that this House:
>
> (1) acknowledges and accepts that many children in the care of the State were abused by those who were meant to care for them and provide a safe and secure home life;
>
> (2) apologises to the victims and expresses our deep regret at the hurt and distress that this has caused; and
>
> (3) acknowledges the courage and strength it has taken for people to talk about events that were clearly traumatic and which continue to have a profound impact on their lives.

2.77 Premier Lennon's speech on the apology motion contained straightforward statements acknowledging the abuse suffered by children in State care and expressing deep regret. The Premier also expressed the Tasmanian government's commitment to providing appropriate services for care leavers and to further funding of the Tasmanian redress scheme.[72]

2.78 The Committee notes that, considered in total, the Tasmanian apology contained the elements of a meaningful apology as identified above.

2.79 No evidence of care leaver experiences and perspectives was received in relation to the Tasmanian apology.

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70 *Submission 44*, p. 1.

71 *Submission 7*, p. 2.

72 Parliament of Tasmania website, *House of Assembly Hansard*, 17 May 2005, http://www.parliament.tas.gov.au/HansardHouse/isysquery/f2539188-ad73-4d3a-ae98-879a5b223839/1/doc/, accessed 16 June 2009.

Victoria

2.80 While the Victorian government declined to make a submission to the present inquiry,[73] its submission to the Committee's original inquiry argued that any formal acknowledgment of the abuse and neglect of children in institutional care 'would need to be carefully considered'.[74] Since then, the Committee notes that the Victorian government has issued a formal apology to those who suffered abuse, neglect or a lack of care in out-of-home care.

2.81 The apology was delivered in the Victorian parliament on 9 August 2006 by the then Premier Steve Bracks. The standing orders of the parliament were suspended to allow the Premier, the leaders of the Liberal and National parties and the Minister for Community Services to make statements. Care leavers were invited to attend parliament on the day of the apology.

2.82 The apology was as follows:

> The government of Victoria welcomes the report of the Senate Community Affairs References Committee, *Forgotten Australians*, which was tabled in the Senate on 30 August 2004, as it offers an opportunity to offer a public statement of apology about some of the past practices in the provision of out-of-home care services in Victoria.
>
> The report provides a detailed picture of the life experiences of many people who as children spent all or part of their childhood in institutional care across Australia. The experiences of many of these children were distressing and have had an enduring detrimental effect on their lives.
>
> The Victorian government believes it is important that these histories are known, are heard and are acknowledged. The government is working hard to ensure that those unacceptable past practices are never ever again experienced by any Victorian child.
>
> We acknowledge that there have been failures with respect to many children entrusted to care. As a result of being placed in care, many of these children lost contact with their families.
>
> The state, the churches and community agencies cared for thousands of children over the years. For those who were abused and neglected, the message we wish to give to them is that we acknowledge their pain and their hurt.
>
> We are also committed to working together with survivors of abuse and neglect in care to promote the healing process.
>
> We take the opportunity provided by the release of this report to express our deep regret and apologise sincerely to all of those who as children

73 See correspondence from the Victorian Government Minister for Community Services, 19 December 2008, listed on the inquiry web pages as *Submission 22*.

74 Senate Community Affairs References Committee, Inquiry into Children in Institutional Care, S*ubmission 173*, p. 22.

> suffered abuse and neglect whilst in care and to those who did not receive the consistent loving care that every child needs and deserves.[75]

2.83 The Committee notes that the Victorian apology contains most of the elements of a meaningful apology as identified above. However, as the discussion below reveals, there are significant concerns about the extent of 'reparation through concrete measures' achieved in Victoria. Further, although apparently pleased with the offering and substance of the apology, a number of submitters and witnesses were critical of its delivery. Ms Clare identified a lack of appropriate ceremony or occasion:

> …the apology could have been done in a better way. It could have been more engaging in terms of actual space and accessibility for people to meet and talk…The Victorian one was a bit too quick for people to really hear and feel and give their experience. It was not enough. People welcomed it, but I think we learned from it.[76]

2.84 Mr Golding also pointed to a lack of appropriate ceremony:

> Many people thought the way the apology was delivered, with the tent at the back of the parliament building crammed with hundreds of care leavers viewing small TV screens, was pretty unimpressive.[77]

2.85 Broken Rites offered a stronger criticism, describing the apology as one of the worst examples of the apologies offered to the Forgotten Australians:

> …the former Premier saw the event as an opportunity for a media stunt. More than three hundred Forgotten Australians were invited and about two hundred and sixty turned up at the Parliament of Victoria expecting that they would be in the chamber gallery to hear and witness the Premier's speech…Only about thirty people were allowed into the gallery just before 2:00 pm and the rest were ushered around to a marquee that had been erected behind the Parliament. With seating available for only about fifty people only, many elderly Forgotten Australians became understandably angry. At the completion of the speech, the Premier was not prepared to go out to the marquee so the Leader of the Opposition and the Minister for Community Affairs did so instead.[78]

2.86 Notwithstanding the concerns expressed about the organisation of the Victorian ceremony, the Committee considers the apology to contain the elements of a meaningful apology as defined above.

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75 Parliament of Victoria, *Legislative Assembly Hansard*, 9 August 2006, p. 2672.

76 *Proof Committee Hansard*, 30 March 2009, p. 40.

77 *Proof Committee Hansard*, 30 March 2009, p. 16.

78 *Submission 14*, p. 2.

Western Australia

2.87 The Committee heard that on 7 April 2005 Western Australia issued an apology to 'people who were harmed in institutional care' over the period covered by the *Forgotten Australians* report. The apology took the form of a parliamentary statement of apology. The statement read:

> The recent report of the Senate Community Affairs References Committee Inquiry into Children in Institutional Care highlights the experiences of many Western Australians who were in institutional care from the early 20th Century until the 1970s.
>
> The Western Australian Government welcomes the report and acknowledges its findings that many children in the institutions suffered neglect or abuse at the hands of some of the adults entrusted with their care. Many of these children were placed in the institutions by past Government agencies.
>
> The report calls upon State Governments to issue formal statements acknowledging their role in the administration of institutional care arrangements and apologising for physical, psychological and social harm caused to the children in the institutions.
>
> Accordingly this Government apologises to all those people who were harmed as children while in institutional care and expresses deep regret at the hurt and distress this caused. We recognise that the effects of the physical, psychological or sexual abuse did not end when these children became adults and that for some of these people the experiences are still as deeply felt today.
>
> We are committed to support victims of abuse in institutions through the provision of counselling and information. Since 1985 the Department for Community Development has had a dedicated information officer to provide personal information to former Wards. The Department has produced *Looking West – a Guide to Aboriginal Records in Western Australia* to assist in the location of records for this significant group. Another publication, *Signposts* to be launched next month, will guide people who were children in residential care from 1920 onwards to agencies where their records might be located.
>
> Counselling is also provided on request through the Department to any person who experienced abuse in an institution or out-of-home care.
>
> It is important to learn from the past. This Government is committed to the improvement and enhancement of services to children in out of home care to ensure they are not subjected to abuse or neglect. Quality assurance processes have been strengthened and additional resources have been provided to the Department for Community Development for better management, supervision and support of children in care.[79]

79 *Submission 11*, pp 1-2.

2.88 The Committee notes that the Western Australian apology fulfils the elements of a meaningful apology, as outlined above. In particular, the apology:

- clearly names the wrongs which it acknowledged, referring to 'neglect', 'abuse' and 'sexual abuse', and their ongoing effects on people's lives;
- is clearly defined as an acknowledgment of the State's responsibility;
- expresses 'deep regret';
- contains assurances that the government is committed to ensuring the specific wrongs will not recur; and
- refers specifically to practical measures taken.

Churches and agencies

2.89 The Committee's second report into children in institutional or out-of-home care, *Protecting Vulnerable Children: A National Challenge*,[80] provided some analysis of the responses of churches and agencies to the recommendation that such bodies apologise to care leavers. That report noted that, by 2005, a number of churches and Catholic religious orders involved in the care of children in institutions had made formal statements of apology and regret acknowledging abuse of children while under their care. These included:

- The Catholic Church, as part of its *Towards Healing* process (June 2003);
- Christian Brothers (July 1993);
- Sisters of Mercy, Rockhampton; and Catholic Diocese, Rockhampton (1997);
- Salvation Army (August 2003);
- Barnardos (February 2004);
- Wesley Mission Dalmar (February and June 2004);
- United Protestant Association, New South Wales (1997); and
- UnitingCare (November 2004, in response to the *Forgotten Australians* report).

2.90 The Committee notes that on 19 July 2008 Pope Benedict offered a general apology to victims of sexual abuse by the Catholic clergy in Australia. However, the inclusiveness of this apology was criticised by Dr Wayne Chamley, Treasurer, Broken Rites, who commented:

> …Catholic Church officials in Australia were requested to permit Broken Rites to provide a list of persons (including Forgotten Australians) who would be invited to meet the pontiff and witness any apology however this

80 Available at http://www.aph.gov.au/senate/committee/clac_ctte/completed_inquiries/2004-07/inst_care/report2/report.pdf

> was ignored. Instead, the Pope met with three persons who were victims of sexual assault within the church.[81]

2.91 More generally, Ms Walsh noted that many people remained unaware of the apologies issued by churches and religious agencies:

> For individuals, though, people noted that they are not necessarily aware of which churches have given apologies—they have not been circulated to people individually. Sometimes they are given with internal complaints processes, but if people have not gone through that process they have not received it. So there is sort of an ad hoc approach to it.[82]

2.92 The AFA submitted that there were still some bodies that had resisted proper acknowledgment of the extent of abuse and neglect in their institutions:

> Some past providers of institutional abuse still deny the extent of the brutality within their own systems.[83]

Reparation and redress schemes

Forgotten Australians Recommendation 6

That the Commonwealth Government establish and manage a national reparations fund for victims of institutional abuse in institutions and out-of-home care settings and that:

- **the scheme be funded by contributions from the Commonwealth and State Governments and the Churches and agencies proportionately;**
- **the Commonwealth have regard to the schemes already in operation in Canada, Ireland and Tasmania in the design and implementation of the above scheme;**
- **a board be established to administer the scheme, consider claims and award monetary compensation;**
- **the board, in determining claims, be satisfied that there was a 'reasonable likelihood' that the abuse occurred;**
- **the board should have regard to whether legal redress has been pursued;**
- **the processes established in assessing claims be non-adversarial and informal; and**
- **compensation be provided for individuals who have suffered physical, sexual or emotional abuse while residing in these institutions or out-of-home care settings.**

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81 *Submission 14*, p. 2.

82 *Proof Committee Hansard*, 6 April 2009, p. 19.

83 *Submission 10*, p. 5.

Government response

The Government does not support this recommendation. The Government deeply regrets the pain and suffering experienced by children in institutional care but is of the view that all reparations for victims rests with those who managed or funded the institutions, namely state and territory governments, charitable organisations and churches. It is for them to consider whether compensation is appropriate and how it should be administered, taking into account the situation of people who have moved interstate.

Implementation

2.93 In keeping with its response to recommendation 6, the Commonwealth government has failed to establish a national reparations fund for victims of institutional and out-of-home care abuse. However, the Committee notes that a number of States have established, or are considering establishing, redress schemes (these are discussed below).

2.94 A number of submitters and witnesses strongly criticised the Commonwealth's lack of action on this issue. Mr Andrew Murray stated:

> The federal government's refusal so far to consider a national reparations fund is mocked by the other governments that can and have introduced affordable and helpful reparations schemes, like those of Canada, Ireland, Tasmania, Queensland and Western Australia. The failure to exercise a duty of care demands restitution, it demands reparation and it demands compensation.[84]

2.95 The CMT characterised the Commonwealth's refusal to establish a national redress scheme as a moral failure:

> The Government's reluctance to consider the need for a national reparation scheme, especially given the legal obstacles posed by statutory time limitation periods, showed a lack of moral leadership.[85]

2.96 Despite the establishment of redress funds by some States, many felt there remained a clear need for the Commonwealth to implement a national fund and to take a coordinating role in relation to State funds. Ms Michaux submitted:

> …although individual organisations, including our organisation, have implemented processes to support victims and to go through processes of some kind of reparation, we support a broader national reparations fund—done well and learning the lessons from other states and countries. We really feel that it is very important to have a national, consistent and equitable approach…[86]

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84 *Proof Committee Hansard*, 31 March 2009, p. 22.

85 *Submission 23*, p. 5.

86 *Proof Committee Hansard*, 7 April 2009, p. 25.

2.97 The AFA submitted that the Commonwealth should also take a leadership role in encouraging States which had not established funds to do so:

> The Australian Government should provide leadership in establishing a national redress fund and urging those states that have not introduced such a fund to join with it in offering financial grants to Forgotten Australians.[87]

2.98 On this point Dr Chamley observed:

> I do not see that the Commonwealth needs to part with a lot of money in a reparation scheme so much as use its muscle to make sure that the state governments and the former church providers stump up the money…[N]ational governments can exert enormous pressure.[88]

2.99 Some States expressed their willingness to consider involvement in a national redress scheme. Ms Linda Mallet, Acting Deputy Director-General, Service System Development, Department of Community Services (NSW), advised:

> …the New South Wales government supports the issue of compensation being considered at the national level and would be willing to assess the viability of a proposal for a national compensation scheme developed through the contribution and cooperation of all jurisdictions as well as churches and other relevant agencies.[89]

2.100 Similarly, Ms Julieanne Petersen, Manager, Policy and Strategy, Guardianship and Alternative Care Directorate, Department for Families and Communities, indicated that the South Australian government would 'be willing to have discussions with the other States and the Commonwealth government' on the establishment of a national scheme.[90]

State redress schemes

2.101 While States were not able to contribute to a national fund in accordance with recommendation 6, a number of them have established their own redress funds. These are: Queensland, Tasmania and Western Australia. The Committee received a considerable amount of evidence on the design and operation of these funds, and how the experiences of care leavers under existing funds can be applied to those States which have not yet established schemes.

2.102 At the time of writing this report, South Australia was also considering establishment of a redress scheme.

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87 *Submission 10*, p. 2.

88 *Proof Committee Hansard*, 30 March 2009, p. 55.

89 *Proof Committee Hansard*, 7 April 2009, p. 69.

90 *Proof Committee Hansard*, 8 April 2009, p. 38.

2.103 New South Wales and Victoria have indicated that they will not establish redress schemes.

2.104 *Forgotten Australians* identified a number of distinguishing criteria and characteristics of reparations schemes, and particularly redress processes/packages:

> While reparations schemes vary they usually contain a number of components including the provision of apologies/acknowledgment of the harm done, counselling, education programs, access to records and assistance in reunifying families. A common feature of redress schemes is also the implementation of financial compensation schemes. While the design of the schemes vary they have as a common goal the need to respond to survivors of institutional child abuse in a way that is more comprehensive, more flexible and less formal than existing legal processes.[91]

New South Wales

2.105 The Committee heard that New South Wales had indicated it would not establish a State redress scheme. Mr Harold Haig, Secretary, IAFCMF, advised:

> We have written to…[the NSW government]. They refuse [to establish a redress scheme].[92]

2.106 The NSW government submission did not address the issue of a stand-alone scheme. However, it indicates that the State is prepared to:

> …assess the viability of a proposal for a national compensation scheme – developed through the contribution and cooperation of all jurisdictions, as well as churches and other relevant agencies – should such a proposal arise from national deliberations on the issue.[93]

2.107 The AFA, commenting on the NSW government position, observed:

> NSW has stated that they will not implement a redress scheme without Commonwealth involvement. This is deplorable but not surprising. The NSW response to survivors has generally been the most lacklustre.[94]

2.108 The NSW submission notes that under 'current arrangements' in NSW, people seeking compensation for abuse and/or neglect while in State care must pursue individual claims through the Department of Community Services, in the first instance, or otherwise through the courts or the victims of crime compensation scheme. Ms Mallet advised:

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91 *Forgotten Australians*, p. 221.

92 *Proof Committee Hansard*, 8 April 2009, p. 10.

93 *Submission 24*, p. 2.

94 *Submission 10*, p. 7.

> New South Wales claims for compensation in relation to abuse in care are assessed on a case-by-case basis. The department makes a determination based on the available evidence. If a legal liability is considered to exist, the claim may be settled. Claimants may also have the option of filing a suit against the Department of Community Services. In addition, there may also be entitlement to make a claim under the victims of crime compensation in New South Wales.[95]

2.109 In relation to claims submitted to the department, Ms Sheedy commented:

> We know people who have tried to do this. It is a very thankless, difficult and ultimately unsuccessful road to go down...[96]

2.110 The Committee notes also that the legal barriers to successfully pursuing claims through the criminal or civil codes are considerable, and usually insurmountable, in cases of historical abuse of children in institutional care. These issues were examined in detail in Chapter 8 of *Forgotten Australians*. The main barriers to pursuing claims through the courts were identified as limitations periods; difficulty proving injury; establishing vicarious liability of institutions, particularly those related to religious organisations; the adversarial legal system; and the prohibitive cost of litigation.[97] In addition, claimants face significant evidentiary barriers, due to their vulnerability in care and the passage of time.

2.111 A number of submitters and witnesses addressed the lack of a redress scheme in NSW. Mrs Julie Holt, Counsellor, Aftercare Resources Centre (ARC), for example, advised:

> …we fully support the establishment of a reparation fund for people who were in care in the state of New South Wales. We are continuously contacted by clients…who want to know why they are not eligible for compensation when care leavers in other states are. 'When am I going to get my money? When am I going to get my apology?' is something that we hear on a regular basis.[98]

2.112 Origins Inc. recommended the Commonwealth provide final support for States that are 'not financially competent such as NSW to provide redress schemes'. This would also ensure that 'victims did not have to return to their abusers for justice', such as when claims were required to be submitted through the Department of Community Services.[99]

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95 *Proof Committee Hansard,* 7 April 2009, p. 70.

96 *Proof Committee Hansard,* 7 April 2009, p. 44.

97 *Forgotten Australians,* p. 208.

98 *Proof Committee Hansard,* 7 April 2009, p. 54.

99 *Submission 2*, p. 12.

Queensland

2.113 Applications for the Queensland redress scheme opened on 1 October 2007. The scheme was established in response to the report of the Forde Inquiry into the abuse of children in Queensland institutions, handed down in May 1999.[100] The Queensland government submission explains:

> …the Queensland Government approved up to $100 million in funding for a Redress Scheme. The scheme is administered by the Department of Communities and provides ex gratia payments to people who experienced abuse or neglect in institutions covered by the terms of the *Forde Inquiry*.[101]

2.114 Eligibility for the scheme was restricted to people who:

- were placed in an institution covered by the terms of reference for the Forde inquiry;
- were released from care and had turned 18 years of age on or before 31 December 1999 and had experienced abuse or neglect; and
- who self-identified as having experienced that abuse or neglect.[102]

2.115 The main features of the scheme were:

- the $100 million funding allocation covered ex-gratia payments, access to legal and financial advice for eligible applicants and practical assistance to lodge an application;[103]
- a two-tiered system of payments:
    - Level 1 payments of $7000 for any applicant who met basic criteria.
    - Level 2 payments of up to $33 000 (in addition to Level 1) for people who 'suffered more serious abuse or neglect';[104] these were to be assessed on a case-by-case basis in a non-adversarial environment, based on the information provided by the applicant as to the harm suffered. Level 2 payments were to be made from the funds remaining once Level 1 payments and associated costs of applications, such as legal fees, had been paid.[105]
- the two payment levels resulted in a combined maximum payment of $40 000 per applicant;

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100 Forde Foundation Board of Advice, *Submission 13*, p. 2.

101 *Submission 15*, p. 3.

102 *Proof Committee Hansard*, 6 April 2009, pp 70-71.

103 *Submission 15*, p. 5.

104 *Proof Committee Hansard*, 6 April 2009, p. 70.

105 *Proof Committee Hansard*, 6 April 2009, pp 77-78.

- successful applicants were to be required to sign a waiver releasing and indemnifying the State government from any future claims that fall within the range of the redress scheme;[106] independent legal advice to assist applicants to make an informed decision was provided;[107] and
- decisions concerning applications could be appealed under the *Administrative Decisions (Judicial Review)* Act or referred to the Ombudsman.[108]

2.116 Applications to the scheme closed on 30 September 2008, after the closing date was extended for three months to allow more time for applications to be received. Level 2 applicants were given until 27 February 2009 to provide any additional information in support of their claims.

2.117 The scheme received 10 200 applications.[109] Of these, more than 60 per cent were seeking both levels (that is, the maximum) payment. Miss Eris Harrison, Senior Policy Manager, AFA, noted that the Queensland scheme had been successful in terms of take up:

> The reason Queensland got such a good take-up…far better take-up than they ever expected—with their redress scheme was because they had support groups already in place…[and] had had the [Forde] inquiry...[110]

2.118 As of 13 November 2008, over 3270 Level 1 payments had been granted. Level 1 payments commenced being paid in December 2007. As of 6 April 2009, over 6000 had been made. Assessment of Level 2 claims began in August 2008.

2.119 Ms Angela Sdrinis criticised the Queensland scheme in terms of the amount of compensation paid to successful applicants:

> …the Queensland scheme was obviously the least generous of them all, and probably not enough for people to feel that they had recognition. On this whole issue of payment of money, there is not enough money in the world on the one hand, but, on the other hand, in our society the money is the only way in which that wrongdoing can be recognised…the money is the thing that costs the giver, the wrongdoer, something. That is what is important to the survivor or the victim.[111]

106 Micah Projects Inc., *Submission 33*, p. 3.

107 *Submission 15*, p. 6.

108 Mr Mark Francis, Executive Director, Policy Development and Coordination, Department of Communities (Queensland), *Proof Committee Hansard*, 6 April 2009, p. 78.

109 *Submission 15*, p. 2.

110 *Proof Committee Hansard*, 30 March 2009, p. 70.

111 Private capacity, *Proof Committee Hansard*, 30 March 2009, p. 7.

South Australia

2.120 South Australia is yet to announce whether it will establish a redress scheme.[112] The submission of the South Australian government states that in July 2008 it established a task force to examine redress schemes for child victims of sexual abuse. The submission states:

> Upon receipt of the task force report, the Government will consider the task force findings and recommendations and determine the most appropriate course.[113]

2.121 Ms Petersen advised:

> I cannot tell you where…[the task force] are up to, but they are exploring a number of different options. They are exploring what the Tasmanian and Queensland governments have done, and I think they are also looking at what the Irish government did a number of years ago. They are exploring those options to see what fits best.[114]

2.122 The reporting date for the task force was 'next year'; and a 'high-level task force was currently meeting 'every six weeks'.[115]

2.123 Ms Carroll expressed frustration at the apparent delay over the decision whether South Australia's would implement a redress scheme:

> Forgotten Australians in South Australia have been listening to redress commitments in Queensland, Tasmania and Western Australia, and additional financial support in Victoria, and none of this is happening in South Australia.[116]

2.124 South Australia submitted that, pending the decision on a redress scheme, claims for compensation could be submitted to the existing Victims of Crime Compensation fund, under which the South Australian Attorney-General was able to make discretionary grace payments. The State government had committed to particular arrangements for claims in relation to abuse in care:

> The Government has expressed its commitment to make reparation of $50,000 available to victims of abuse in care without the prerequisite of a conviction to avoid further traumatisation of individuals and their families.[117]

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112 *Submission 28,* p. 2.

113 *Submission 30,* pp 2-3.

114 *Proof Committee Hansard,* 8 April 2009, p. 37.

115 *Proof Committee Hansard,* 8 April 2009, p. 41.

116 *Proof Committee Hansard,* 30 March 2009, p. 63.

117 *Submission 30,* pp 2-3.

Tasmania

2.125 In August 2003 the Tasmanian government announced a redress scheme in response to an investigation by the State Ombudsman into past abuse of children while in State care.

2.126 Eligibility for the scheme was restricted to people who had suffered abuse and neglect in care as wards of the State. The Tasmanian Minister for Human Services advised that former child migrants were able to access the scheme.[118] Ms Leica Wagner, Manager, Abuse of Children in State care, Department of Health and Human Services (DHHS), advised:

> We look at cases of migrants, children who have been placed in non-government, in particular church-run organisations, and other institutions. However, we would only look at those cases where those children were placed there by the state. The underlying criterion is that they were placed in state care. The state may then have put those children into one of those institutions.[119]

2.127 Ms Wagner clarified that this meant that children who were placed into care arrangements 'voluntarily' by their parents or relatives did not qualify for the scheme.[120]

2.128 The main features of the scheme were:

- funding of $24 million;[121]
- claims were made through the Ombudsman;
- a review team investigated the claim, through record-checking and interviews;
- the interview process in part involved determining what the claimant wanted from the process. This included, for example, an apology issued on behalf of the DHHS, official acknowledgment that the abuse occurred, assistance tracking lost family members and access to departmental files, professional counselling, payment of medical expenses, and compensation;
- an independent assessor of claims, whose role was to:
    - record settlements reached between DHHS and claimants against the referrals made by the Ombudsman.
    - receive referrals from the DHHS on all matters which had not reached settlement; such cases were reviewed and, where appropriate, assessed for an ex-gratia payment.

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118 *Submission 7*, p. 1.

119 *Proof Committee Hansard*, 8 April 2009, p. 72.

120 *Proof Committee Hansard*, 8 April 2009, p. 72.

121 *Proof Committee Hansard*, 8 April 2009, p. 78.

- the maximum amount for individual payments was $60 000; however, the assessor could recommend a higher payment sum in exceptional circumstances.[122]
- DHHS advised that, in addition to assessment of claims:

> The Review process was designed in a way which gave victims of abuse the opportunity to tell their story, to view their files, to receive counselling and to be assessed for an ex gratia payment...
>
> Claimants in the Review were also assisted in tracing family members and every effort was made to locate significant documents and photographs for claimants.[123]

2.129 The scheme ran from 2003 to 2005. However, it was re-opened from March to July in 2008 'in recognition of the fact that a number of care leavers had missed out on the opportunity to make a claim'.[124] In respect of future claims, Ms Alison Jacob, Deputy Secretary, DHHS, advised:

> We have also made a commitment recognising that there would still be some people who, for whatever reason, have not made an application during the first three rounds of compensation. The government has also established a trust fund that would allow an ongoing process for any person who subsequently comes forward to be able to have an application dealt with according to the same processes, although those payments would be capped at the average payment that has been made up to date, which is $35,000.[125]

2.130 Under the initial rounds of the scheme 878 claims were received. Of these, 686 had received payment. Unsuccessful claims were generally from people who were privately placed into care as children.[126]

2.131 Over 1000 claims had been received for the 2008 phase of the scheme.[127]

Victoria

2.132 The Committee heard that in 2008 Victoria announced it would not establish a redress scheme but would deal with abuse allegations on a case-by-case basis.[128]

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122 *Forgotten Australians*, p. 222.

123 *Submission 7*, p. 2.

124 Department of Health and Human Services (Tasmania), *Submission 7*, p. 2.

125 *Proof Committee Hansard*, 8 April 2009, p. 70.

126 *Proof Committee Hansard*, 8 April 2009, p. 77.

127 *Proof Committee Hansard*, 8 April 2009, p. 78.

128 Association of Child Welfare Agencies, *Submission 28*, p. 2.

2.133 Mr Golding advised that efforts to negotiate with the Victorian State government over the establishment of a redress scheme had been unsuccessful:

> I have been part of CLAN delegations on a number of occasions to successive Victorian ministers. We spoke at one stage to Premier Bracks. But the government's unwavering position is that, notwithstanding the acknowledgement of the harm that has been done, they will only deal with compensation on a case-by-case basis, even though they know that this is harmful and quite painful for the persons concerned.[129]

2.134 CLAN advised that, as with New South Wales, claims for compensation would need to be pursued primarily through the court system, and therefore face the obstacles outlined above:

> …the Victorian Government has stated that abuse allegations…[must be] tested through the court system. In addition victims/survivors would be required by the state's solicitors to provide corroborative information such as the exact date on which abuse occurred, the precise nature of the abuse, details of any complaints they made about the abuse and the precise date on which complainants began to suffer injury, loss and damage.[130]

2.135 In relation to settlements obtained via claims lodged in the courts, Mr Golding commented:

> The Victorian Government says it has outlaid more than $4m on out-of-court settlements (all victims are bound by confidentiality agreements). In the light of the sums made available in States where redress schemes are available – WA $114m, Queensland $100m and Tasmania $75m – it is hard not to conclude that the Victorian Government's approach is designed cynically to save money.[131]

2.136 Ms Sdrinis informed the Committee, however, that Victoria had begun to meet with claimants to try to settle claims without recourse to litigation.[132] Ms Sdrinis indicated that some claims had been settled for 'very low six-figure sums'.[133]

Western Australia

2.137 The Committee had the benefit of questioning officers from the Western Australian redress scheme, Redress WA, at the hearing of the inquiry in Perth. The opportunity to examine a State scheme in detail was of great assistance to the Committee.

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129 *Proof Committee Hansard,* 30 March 2009, p. 17.

130 *Submission 21*, p. 4.

131 *Submission 16*, p. 5.

132 *Proof Committee Hansard,* 30 March 2009, p. 10.

133 *Proof Committee Hansard,* 30 March 2009, p. 6.

2.138 On 17 December 2007, the Western Australian government announced the establishment of Redress WA for children abused and neglected in State care. In terms of funding, the Western Australian Department for Communities advised:

> The Redress WA fund is fixed at $114 million, of which approximately $24 million is being expended on service providers of legal, financial and psychological counselling and support, as well as administration of the scheme. This means that once all applications have been assessed, about $91 million is available for distribution as *ex-gratia* payments.[134]

2.139 Eligibility for the scheme was restricted to people over 18 years of age who suffered abuse and/or neglect as children while in State care in Western Australia prior to 1 March 2006. The scheme was not generally open to children who were adopted, on the grounds that once adopted the adoptive parents became their legal guardians, with the same rights and responsibilities of the biological parents of a child.[135] However, applicants did not have to be former State wards, meaning that people who were 'voluntarily' placed in care were eligible for the scheme. The submission of the Western Australian Department for Child Protection notes:

> …[Those eligible for the scheme] include former child migrants, those of the 'stolen generations' and anyone who spent time in a care facility that was subsidised, monitored, registered or approved by a State Government, including foster homes or other residential settings.[136]

2.140 Ms Sheedy observed:

> The good thing about Western Australia is that they cover everybody whether they were a state ward, a home child or in foster care.[137]

2.141 The main features of the scheme were:

- a two-tiered system of payments:
  - an ex-gratia payment of up to $10 000 whereby applicants must show there is a reasonable likelihood that they experienced abuse and/or neglect
  - an ex-gratia payment of up to $80 000 whereby medical and/or psychological evidence is provided to substantiate claims of abuse and/or neglect; this is the highest payment available under any of the state redress schemes;[138]

134 *Submission 12*, p. 6.

135 *Submission 12*, p. 4.

136 *Submission 11*, p. 3.

137 *Proof Committee Hansard,* 7 April 2009, p. 43.

138 Ms Stephanie Withers, Executive Director, Redress WA, Department for Communities, *Proof Committee Hansard*, 31 March 2009, p. 49.

- a specialist team of 'records people' and senior archivist; applicants were thus not required to locate and access their records;
- offers of payments to be endorsed by an independent review member or a panel of independent review members; prior to accepting an offer all applicants are required to take independent legal advice as to the nature and effect of the terms of the settlement, with such legal advice paid for by Redress WA up to a maximum of $1000;[139] and
- guidelines for dealing appropriately with applications from people with serious health problems.[140]

2.142 In addition to assessment of claims, the scheme provided:

- a personal apology from the Western Australian Government;
- access to support services such as psychological and financial counselling;
- assistance to eligible applicants, including those residing outside the State,[141] with the Redress WA application process;[142] and
- the opportunity for applicants to formally record their stories on their official files (regardless of whether they receive payment).[143]

2.143 The scheme, being ex gratia, does not offer access to judicial or administrative review through tribunals or the courts. However, the Committee heard that there was a high value placed on scrutiny and accountability of decisions, reflected in the mechanism established for complaints. Mr Peter Bayman, Senior Legal Officer, Redress WA, outlined the options open for applicants who were unhappy with a decision:

> The independent review panel will have a senior legal person as the presiding member. It will include people with social work and psychological experience and also support group representatives. That is really the first line of appeal. If that group of people…feel there was something wrong and that we did not cover a particular area, they will send it back and say, 'Look, we don't think you got it right.' So…although there is no appeal on quantum ultimately to the court, there is the independent review panel, the internal redress complaint process and then the complaint process to the Ombudsman.
>
> …[Also] it is arguable that somebody could lodge an application in the Supreme Court [under the ADJR Act]. They could not have the quantum

139 *Submission 12,* p. 7.

140 *Submission 12*, p. 6.

141 CLAN, *Submission 21*, p. 4.

142 *Submission 11*, pp 3-4.

143 Western Australian Department for Communities, *Submission 12*, p. 4.

> reconsidered but they could…[seek to] have the decision sent back to the department to be redone.[144]

2.144 Applications for the scheme were open from 1 May 2009 to 30 April 2009; and it was intended that applications would be processed and the scheme closed down by 'the end of 2010'.[145]

2.145 Ms Stephanie Withers, Executive Director, Redress WA, Department for Communities, estimated that the scheme would attract around 3500 applications. Of the approximately 2000 applications received at the time of the hearing, nearly half were from Indigenous people; and nearly a quarter were from former child migrants.[146] Dr Marilyn Rock, Senior Redress Officer, Redress WA, observed that non-Indigenous and non former child migrants were potentially under-represented:

> But it is a point of concern, because there are so many people who are missing out. Once again, Aboriginals and child migrants make up the bulk of the applicants, so it is that core of people who are non-child migrants and non-Aboriginal community members who are missing out, because they are not 'organised'.[147]

2.146 The Committee was advised that approximately 270 of the approximately 2000 applications received thus far had been submitted by care leavers now resident outside the state.[148] Similarly, Queensland advised that it had received applications from 'across Australia and overseas'.[149] The Committee notes that the significant proportions of all applications coming from outside the States demonstrates the large numbers of care leavers that tend to leave the State in which they received care as a child. This fact justifies the significant effort made by Redress WA to advertise its scheme outside the State following the initially low take-up (see below). The Committee notes also that the high mobility of care leavers is a core reason for the ongoing need to ensure that services are available to Forgotten Australians in all States, regardless of where they experienced institutional or out-of-home care.

2.147 Miss Harrison felt that the Western Australian scheme had failed to attract substantial numbers of applicants, and that this was due to the scheme's lack of integration or association with support services:

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144 *Proof Committee Hansard*, 31 March 2009, pp 49-50.

145 *Proof Committee Hansard*, 31 March 2009, p. 47.

146 *Proof Committee Hansard*, 31 March 2009, p. 47.

147 *Proof Committee Hansard*, 31 March 2009, p. 50.

148 Ms Eileen O'Reilly, Senior Redress Officer, Redress WA, Department for Communities, *Proof Committee Hansard*, 31 March 2009, p. 61.

149 *Proof Committee Hansard*, 6 April 2009, p.72.

> The take-up has been very low, which is not surprising to us at all, because there are no services associated with the redress scheme and there have been no services in the past.[150]

2.148 The Western Australian Department for Communities acknowledged that the scheme had initially attracted significantly fewer applications than the 10 000 which had been expected. A communications and media officer was subsequently appointed to implement a communications plan for the scheme.[151]

2.149 The AFA submission outlined concerns about the possible delay and effect on applicants of the scheme's approach to locating and accessing records, which, as noted above, was being done by dedicated officers on behalf of applicants:

> …this [approach] places some applicants at a disadvantage, because they may not see what the Redress WA assessors will. FIRB (the Family Information Records Bureau in WA) has been swamped with applications and has inadequate resources to cater to the demand created by Redress WA. There is currently a 6-8 month waiting list for obtaining Child Welfare files from FIRB, which means many people won't get their records until after the application period closes in April 2009.[152]

2.150 A number of submitters and witnesses felt that Redress WA was the best of the redress schemes to be implemented in Australia. Ms Sdrinis, for example, said:

> …the Western Australian scheme is the best one so far. It is the most generous, simply in terms of monetary compensation. It is very straightforward in what it seeks. It asks for evidence or information about the abuse and then it asks for proof of injury, which is quite straightforward—medical reports, statements from family members and that sort of thing, in terms of the effects of the abuse.[153]

2.151 Dr Joanna Penglase, Co-founder and Project Officer, CLAN. concurred:

> Western Australia [is the best scheme] so far. It is a good model in that there is quite a lot of money allocated. They have done quite a lot of advertising. They have allocated money for advertising and to try to find people in other states. It is fairly well resourced…They have also tried to get funds through to people who are ill or dying. There is some compassion there.[154]

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150 *Proof Committee Hansard,* 30 March 2009, p. 70.

151 *Submission 12*, p. 6.

152 *Submission 10*, p. 11.

153 *Proof Committee Hansard,* 30 March 2009, p. 6.

154 *Proof Committee Hansard,* 7 April 2009, p. 42.

Benefits of State redress schemes

Acknowledgement

2.152 The *Forgotten Australians* report noted:

> …there is an increasing interest throughout the world in the issue of reparations for past injustices and the role that such reparations can play in reconciling particular aggrieved groups within nations with the larger society.[155]

2.153 This view was supported by evidence received in the present inquiry, which indicated that a benefit of redress schemes was that they provided an opportunity for people to have their stories heard. Mrs Syed-Waasdorp, for example, submitted:

> It was a good idea to have a redress. It is a great thing to have. It gives us a chance to write to the government and let them know how we did all suffer and it lets us be heard, lets our stories go and be heard.[156]

2.154 The idea that redress schemes provide a therapeutic avenue for people to tell of their experiences in a public forum was a recurrent theme. However, such experiences were tempered or balanced by evidence that, for some, such processes could not in themselves ameliorate the pain of past injustices. Ms Wagner, for example, observed:

> …we have had some people who come through the process who are getting fairly elderly and in some cases they are telling us their stories for the first time. It has been a great comfort for them that finally someone has listened and acknowledged what occurred to them as children…[However, we] often see people who have travelled through different routes through their lives, through the justice system, and remain very angry and bitter at what happened to them as children.[157]

Comparison to criminal and civil legal processes

2.155 Given the problems associated with pursuing legal claims outlined above, many submitters and witnesses noted that the processes offered by redress schemes were preferable to criminal and civil legal trial processes:

> …to go through litigation and everything that that involves—the cost and the trauma and the delay and the feeling that you are on trial rather than your perpetrators—compared to that, redress funds have got to be better. There is no comparison.[158]

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155 *Forgotten Australians*, p. 214.

156 *Proof Committee Hansard*, 6 April 2009, p. 25.

157 *Proof Committee Hansard*, 8 April 2009, p. 79.

158 Ms Angela Sdrinis, Private capacity, *Proof Committee Hansard*, 30 March 2009, p. 6.

2.156 Redress schemes also offer scope to address a range of undoubted wrongs that fall outside of legal definitions of criminal or negligent behaviour. Such wrongs were detailed extensively in both *Lost Innocents* and *Forgotten Australians*. Ms Sdrinis noted that the Western Australian redress scheme, for example, recognised 'neglect' as a basis for compensation.[159]

Contribution to investigation of historical crimes of sexual and physical abuse

2.157 Ms Sdrinis observed that redress schemes could contribute to the investigation and prosecution of perpetrators of abuse, insofar as such schemes were coordinated with police units with specialist knowledge and a dedicated remit to investigate the particular crimes committed against care leavers:

> In states where redress funds have been set up, there is a process whereby all complaints—provided that the claimant gives permission—are referred to a task force set up by the state police service; a task force which will investigate the criminal aspects of the conduct and, if appropriate, prosecute the perpetrators.[160]

2.158 By acting as a conduit for allegations of historical abuse to be collected in central databases administered by dedicated police services, redress schemes could help overcome the lack of corroboration that is so common in cases of historical abuse.[161]

> In these cases of historical sex crime, corroboration is everything. You are not going to establish beyond reasonable doubt that a crime occurred if you are relying upon the memories of a child and if the perpetrator is flatly denying that these events ever occurred. You are not going to be able to prove it. But where there are two or three or four or more complaints about a perpetrator then the likelihood is that the police will prosecute and the likelihood is that they will get a conviction because of the corroboration.[162]

2.159 By comparison, Mr Golding described the difficulties of current processes to report and investigate allegations of historical abuse against care leavers.

> At the moment in Victoria…the system that requires complainants to tell their story first to the local police and then again to the appropriate Sexual Offences and Child Abuse unit. Not only is this a needlessly repetitive, traumatic and insensitive process, police sources concede that if a complaint is lodged in one city in Victoria and another person makes a similar complaint against the same alleged abuser in another city, it is largely a matter of chance whether the alleged offences are matched up and the full extent of the alleged abuse discovered. Yet corroboration can be crucial in obtaining a conviction. Having your story heard through a redress

159 *Proof Committee Hansard,* 30 March 2009, p. 12.

160 *Proof Committee Hansard,* 30 March 2009, p. 3.

161 *Proof Committee Hansard,* 30 March 2009, p. 3.

162 *Proof Committee Hansard,* 30 March 2009, p. 3.

> scheme is for many victims an act of closure, but having your tormenter brought to justice is equally important (if not more so for some victims)…[163]

2.160 The Committee heard that Tasmania had made explicit arrangements for its redress scheme to link up with its Police. Mr Golding advised:

> I understand that, as part of their arrangements for redress for former wards of the state, the Tasmanian Abuse of Children in State Care Assessment Team has a system of referrals to specially selected liaison officers in Tasmania Police. This referral system is designed to ensure that, in as many cases as possible, perpetrators will be tracked down and dealt with in the criminal justice system.[164]

2.161 CLAN submitted:

> As far as CLAN is aware, the only state in Australia which has set up a state database of known perpetrators of abuse in care is Tasmania, within their Police Department. They are to be commended for this initiative, which needs to become the norm in every state of Australia.[165]

2.162 Ms Sdrinis saw a role for the Commonwealth in the establishment of specialist police 'Sexual Offence and Child Abuse' units to facilitate the investigation and prosecution of historical crimes against care leavers.[166]

Concerns with the operation of State redress schemes

Unequal access to State redress schemes

2.163 Submitters and witnesses highlighted the inequity or unfairness caused by inconsistent access to reparation, due to the failure of some States to implement redress schemes. Mr Golding observed that care leavers were being denied access simply on the basis of their State of residency.[167] Accordingly, the Association of Child Welfare Agencies (ACWA) called for a 'national approach on the basis that:

> …too many people fall between the cracks in this State-by-State approach…[168]

2.164 Dr Penglase commented:

> …the reparations issue is difficult and complex. Redress, which is now linked to the states, is a very thorny issue with care leavers because there is

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163 *Submission 16*, p. 6.

164 *Submission 16*, p. 6.

165 *Submission 21*, p. 6.

166 *Proof Committee Hansard*, 30 March 2009, pp 4, 7.

167 *Proof Committee Hansard*, 30 March 2009, p. 18.

168 *Submission 28*, p. 3.

> such inequity across the states. This is a really major problem, which we raised in our submission. Some states have redress schemes and some do not.[169]

Inconsistency of scheme conditions

2.165 As shown above, State schemes have had many differences in terms of eligibility requirements, methods of determining compensation, levels of compensation, access to records and support arrangements for claimants. The ACWA observed:

> In short, some of the states have offered reparations/redress under varying conditional constraints – most have deadlines by which applications need to be lodged; some have sliding scales of reparations dependant upon degrees of abuse received; eligibility varies from state to state in terms of place of residence v Home location; and some have rigid levels of statutory compensation.[170]

2.166 The Committee heard that the varying conditions across the States had caused considerable distress to care leavers. The ACWA submitted:

> …too many people are forced to make odious comparisons in their treatment versus that available in another jurisdiction.[171]

2.167 Dr Penglase noted that in some cases care leavers had also experienced inconsistent treatment within State schemes:

> For example, Tasmania does not acknowledge you if you were not a state ward. So you can have a brother and a sister, one of whom was a state ward and one who was not, in the same or related homes and one is eligible and one is not. So that is very difficult for people to understand and to come to terms with. The point about redress is that if it is in one state it needs to be in all states, and it is not.[172]

2.168 Ms Sheedy was also concerned about unfair outcomes based on eligibility criteria:

> …in Queensland, we have a member who is a 54-year-old state ward of Queensland who was not covered by the Forde inquiry. She is not entitled to redress because she was in foster care but her 83-year-old father who was in an orphanage in Queensland was entitled to the redress money. These inequalities are just not acceptable really.[173]

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169 *Proof Committee Hansard,* 7 April 2009, p. 40.

170 *Submission 28*, p. 3.

171 *Submission 28*, p. 3.

172 *Proof Committee Hansard,* 7 April 2009, p. 40.

173 *Proof Committee Hansard,* 7 April 2009, p. 43.

2.169 The AFA submitted:

> Eligibility needs to be as broad as possible. Excluding survivors of abuse in foster care, people in detention centres, people who were not state wards or people who were only in care for short periods, for example, creates undesirable divisions and adds to the administrative burden the need to make judgements about who "fits" the criteria and who does not and then to defend those judgements through an appeal system. The eligible group needs to be as broad as possible.[174]

2.170 Mr Golding called for the Commonwealth to play a central role in ensuring the coordination of redress schemes across the States and Territories:

> …the Commonwealth should make a major contribution by bringing together the various players in this area and talking about some common guidelines—not necessarily mandating them but at least getting that discussion going about the need for common guidelines.[175]

2.171 Ms Clare also saw value in a coordinated national effort to identify successful models:

> We would like to see the outcomes from the redress schemes that have operated [applied] so that Victoria and other states could have the benefit of then putting in place what is most appropriate and most supportive. That piece of national work would be helpful in putting pressure on states that have only partially met that need or those, like Victoria, that have not met it at all.[176]

Inconsistency of compensation

2.172 The different methods of determining levels of compensation across the State schemes attracted particular comment. Many felt that the process of having to establish evidence of abuse or physical and mental harm in order to qualify for higher awards of compensation was unfair. Ms Marlene Wilson explained:

> …the redress is just another kick in the teeth. It was a pittance, and for $7,000 having to sign to say I would never ever take the government to court shows me I am still not worth very much and the government does not think very much of me to this very day…Just because I am not under psychiatric care and those kinds of things does not mean I do not suffer and my family have not suffered.[177]

2.173 Similarly, Mrs Lovely commented:

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174 *Submission 10*, p. 7.

175 *Proof Committee Hansard*, 30 March 2009, p. 19.

176 *Proof Committee Hansard*, 30 March 2009, p. 38.

177 Private capacity, *Proof Committee Hansard*, 6 April 2009, p. 82.

> All of the people who were in the homes have similar stories, some a lot worse than others, but I found that very difficult—that is, to try to prove how and what happened. I did not think, personally, that we should have to try to prove what happened to us because I think it is general knowledge that this all went on in each and every institution.[178]

2.174 The ACWA observed that many care leavers equated the different levels of compensation awarded to a judgment about the seriousness of the abuse, or the severity of the harms, suffered:

> …states that have already paid reparations have had to do so with one eye on a limited fund and the other on trying to balance justice against need, so that, too often, applicants are left wondering why their own life affecting abuse or rape or permanent injury was worth so little.[179]

2.175 Commenting on the Tasmanian scheme, in which each claim was assessed on the basis of a review, Dr Penglase observed:

> The Tasmanian scheme seems to have been divisive at times. I think it is probably better always to have a certain sum allocated because in Tasmania people would get together and compare, 'My abuse was worth this much, and yours was worth that much,' which can be very divisive. We heard quite a few stories of pain and more suffering coming out of that.[180]

2.176 The two-tier system of compensation employed by both Queensland and Western Australia was also criticised. Ms Greaves observed:

> People are very angry and frustrated because, as the system goes into the different grades, if the sexual abuse is on the top you diminish what has happened underneath and it should have been equal. Abuse is abuse and it is an individual effect on children. It is not the same across the board, so there should not have been classifications.[181]

2.177 Accordingly, Ms Greaves called for redress schemes to offer standard or flat rates of compensation:

> …the redress should have been a national system overseen by the Commonwealth government and the monetary compensation should have been equal in all states. I really think that it needs to be investigated, because you have done further harm through restrictions and classifications of abuse. Regardless of what category of abuse someone falls under, governments cannot decide which has done more harm or less. It is an

178 *Proof Committee Hansard,* 6 April 2009, p. 23.

179 *Submission 28,* p. 4.

180 *Proof Committee Hansard,* 7 April 2009, p. 42.

181 *Proof Committee Hansard,* 30 March 2009, p. 44.

> individual thing that has happened, so the compensation should have been quite equal.[182]

2.178 Miss Harrison, however, saw benefits in a graded approach to determining compensation:

> We quite like the two-tier scheme, which means that people who do not want to go through all the horror of retracing the steps of every awful thing that happened to them and finding what evidence they can…still get a base payment that acknowledges that they experienced harsh treatment in care without demanding too much of them in return.[183]

2.179 The AFA also preferred the two-tiered approach:

> The two-tier schemes introduced by Queensland and Western Australia are a good way of ensuring all survivors can (relatively easily) claim a base amount without having to go through the additional trauma of producing a more detailed and documented account of their suffering. Those who are able and ready to claim the higher level of reparation can do so.[184]

2.180 Mr Bayman advised that the tiered system of compensation based on a 'legal model of pain and suffering', as opposed to a flat payment, meant that the type or severity of abuse suffered, as well as individual factors such as personality and need, could be taken into account. Such an approach allowed a more complex and holistic assessment of a person's experiences and circumstances.[185]

2.181 In terms of levels of proof needed to establish claims under the Tasmanian scheme, Ms Jacob advised that evidential standards were applied appropriately, as well as being sensitive to care leavers:

> In our assessment processes around the ex-gratia payments, the assessment process has taken a pretty liberal view that we do not rely on everything being evidenced in files, because if we did that clearly that would have been an unrealistic expectation of the file system. We work with the paper files the best we can, but we also take very seriously the story that the applicant tells us. It is that story that is assessed. We tend to err on the side of being as expansive as we possibly can in terms of what the person is telling us, rather than having everything having to be validated by what is in the file.[186]

2.182 The AFA felt a similar approach to evidence was needed even where higher levels of compensation were sought.

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182 *Proof Committee Hansard,* 30 March 2009, p. 44.

183 *Proof Committee Hansard,* 30 March 2009, p. 70.

184 *Submission 10,* p. 8.

185 *Proof Committee Hansard,* 31 March 2009, pp 55-56.

186 *Proof Committee Hansard,* 8 April 2009, p. 80.

> The decision about whether to proceed to claim the higher level of reparation must be made in the knowledge that support in the preparation of the claim will be available, and that unreasonable levels of detail will not be required.[187]

Impact of redress schemes on other services

2.183 The CMT advised that the scheme had increased contacts with former child migrants, increasing the call on the Trust's services for the duration of the scheme and beyond. Mr Ian Thwaites, Service Manager, CMT, advised:

> The Western Australian state government redress scheme has brought many more people forward, as well as people that we have not seen for years who have now come in. In asking for assistance to prepare their statements for redress, it has also become very clear that there are still missing family members. Some people did not ask at the time for their families to be found and so we are now engaging with them in core service issues that will go far beyond the end of the redress scheme.[188]

2.184 Dr Rosser indicated that the implementation of redress schemes could put pressure on systems related to identification of and access to records:

> …if you are designing a scheme, again one of the lessons to learn is to try and get your records house as much in order as you can before you start and perhaps have a longer lead time…if there were a long lead time and the records were right, then people would be able to access their records prior to making their applications.[189]

Retraumatisation

2.185 It was apparent from the experiences of care leavers pursuing claims through redress schemes that there was significant occurrence of retraumatisation through having to recount their experiences to establish their claims. For example, Mr Wayne Bradwell commented:

> I learnt to keep a lot of…[my childhood experiences] locked away in a little safe in the back of my head. I have had it locked away for an awful lot of years. A lot of it is making me very agitated since this redress came up. I did not have to do much for the first round, but for the second round I had to sit in a very small room and explain why I deserve the second part of the redress.[190]

2.186 The AFA observed:

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187 *Submission 10*, p. 8.

188 *Proof Committee Hansard*, 8 April 2009, p.13.

189 *Proof Committee Hansard*, 31 March 2009, p. 6.

190 Private capacity, *Proof Committee Hansard*, 6 April 2009, p. 59.

> Support to prepare claims must be provided as part of the system. This is not just legal support but sympathetic support that recognises the trauma such a process creates and offers advice on the amount of detail needed to establish an entitlement.[191]

Timeframes

2.187 The Committee notes that the redress schemes established by the States have all been of relatively short duration, leading to extensions of deadlines or scheme operation. Despite such extensions, the Committee heard that considerable numbers of people are likely to have missed the opportunity to submit claims. For example, Ms Walsh advised:

> …part of the problem with the Queensland Redress Scheme was the timeframe…[There] was not enough time given to the numbers involved. We have a record of about 70 people who would be eligible who did not know about the scheme…[The] timeframe around implementation of Redress with very little additional resources was a major issue.[192]

2.188 The AFA observed that there are a number of factors that made it difficult for care leavers to adhere to narrow scheme timeframes:

> Schemes should be open-ended, as eligible survivors are all at different stages in the acknowledgement process and should not be rushed into public declarations before they are ready. Forgotten Australians working in government departments fear discrimination if they disclose, and will often elect to wait until retirement before claiming redress. There are also issues of awareness; people who cannot read, for instance, because an education was denied them, may take much longer to learn about a government policy or scheme. Deadlines are counterproductive.[193]

2.189 Ms Walsh agreed that redress schemes should in general provide for much longer periods of operation:

> …the lessons of the redress schemes everywhere are showing that timeframes and the ability to just get your life into some sort of order to be able to fill out an application process by the due date and get the necessary documentation is an unrealistic request given the lives that people are living, or something that was a much longer period of time as a public hearing.[194]

191 *Submission 10*, p. 7.

192 *Proof Committee Hansard*, 6 April 2009, p. 34.

193 *Submission 10*, pp 7-8

194 *Proof Committee Hansard*, 6 April 2009, p. 34.

Redress through the religious schemes

Recommendation 7

That all internal Church and agency-related processes for handling abuse allegations ensure that:

- **informal, reconciliation-type processes be available whereby complainants can meet with Church officials to discuss complaints and resolve grievances without recourses to more formal processes, the aim being to promote reconciliation and healing;**
- **where possible, there be independent input into the appointment of key personnel operating the schemes;**
- **a full range of support and other services be offered as part of compensation/reparation packages, including monetary compensation;**
- **terms of settlement do not impose confidentiality clauses on complainants;**
- **internal review procedures be improved, including the appointment of external appointees independent of the respective Church or agency to conduct reviews; and**
- **information on complaints procedures is widely disseminated, including on Churches' websites.**

Government response

This is a matter for churches and agencies to consider. The Australian Government urges churches and agencies to respond positively and compassionately.

Implementation

2.190 *Forgotten Australians* noted that a number of churches had, by the time of that report, established internal redress-type mechanisms to provide assistance and support to victims of abuse by church personnel. The report noted:

> These processes provide an alternative avenue of redress to civil litigation for people alleging neglect or abuse in church-run institutions. Many former residents will not, however, use these processes because of past negative experiences as children in the institutions operated by the various Churches.[195]

2.191 Noting the potential for churches to continue to receive complaints about abuse, the report also observed that it is essential that complaints handling procedures across all churches are effective and transparent. The report described the processes in

195 *Forgotten Australians*, p. 228.

place in the Catholic, Anglican and Uniting churches, the Salvation Army and Barnardos, identifying a number of problems. These included:

- decisions lacking apparent objectivity;
- a lack of informal or reconciliation-style processes;
- processes lacking transparency and accountability;
- appointments lacking independence;
- failure to adhere to, and inconsistent, processes;
- coercion and intimidation of claimants; and
- overly legalistic approaches.

2.192 The Committee received no submissions from the major religious organisations. While it is difficult to conduct an in-depth analysis of the changes to religious redress schemes in the absence of detailed responses from the churches, a number of stakeholders offered comment on the ongoing implementation and performance of religious redress schemes.

2.193 Mr Andrew Murray noted that churches should be given some credit for their efforts to date in instituting redress schemes:

> …we need to recognise that many churches and agencies—even recalcitrant churches, agencies and individuals—responded to the original recommendations very well and instituted processes…Much progress has been made.[196]

2.194 Ms Walsh commented:

> I think the very fact that every church now has a protocol is a significant improvement on what it was like 10 years ago. In the last 10 years we have seen churches put enormous energy into looking at developing protocols. It is the understanding of how those protocols need to be implemented that needs more attention across the board.[197]

Consistency, transparency and accountability of processes

2.195 Commenting on the Catholic Church's *Toward Healing* scheme, Ms Walsh advised that the program was not consistently applied:

> …Towards Healing is a national program, but its implementation is not nationally applied. It is still very locally driven according to how local bishops and religious orders want to deal with it. The problem for the public and for victims of abuse and their families is that there is no clear picture of what is going to happen when you actually do process a complaint, even

196 *Proof Committee Hansard,* 31 March 2009, p. 29.

197 *Proof Committee Hansard,* 6 April 2009, p. 36.

> though there is a document. When people speak to each other or hear how different complaints have been heard, it varies greatly.

2.196 Dr Philippa White, Coordinator, CBERS Consultancy, acknowledged that there was a significant degree of variation in the processes offered by the different church organisations and across the States.[198]

2.197 Submitters and witnesses also indicated there were still concerns over the transparency and accountability of church redress schemes:

> There remains no benchmark, no accountability, and no transparency on the part of church bodies when it comes to the issue of handling abuse allegations.[199]

2.198 Dr Chamley, who had experience as an advocate for claimants, submitted that religious organisations had failed to adequately publicise processes available for people to seek redress:

> The response of the various bodies to this recommendation has been patchy at best, and sometimes against the intent of the recommendation. While attention has been directed towards the development of internal codes and procedures, a big failure here has been the absence of clear information on website home pages that there is a process available. None of the churches, religious organisations and charities has been proactive in this regard.
>
> The Salvation [Army] has never been prepared to provide such information while with the Anglican Church, information appears on the home pages for some dioceses. In the case of the Catholic Church, information was available on the home page before the release of the Senate Committee Report then, all of it was removed when a new website was developed and installed.[200]

2.199 Dr Chamley identified a number of very serious procedural and natural justice issues in relation to church schemes, including anecdotal accounts of churches using private investigators to conduct irrelevant investigations into claimants' affairs, and the improper use of medical information:

> They consistently withhold medical reports. They will even commission psychiatric reports. They refuse to hand copies of those reports to the claimants, even though in law anyone is entitled to receive any medical report about them, or they give them to me on the day of the mediation, when their lawyers have had them for weeks. They use private investigators in the lead-up to these mediations. This is mainly the Catholics who play tough.[201]

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198 *Proof Committee Hansard*, 31 March 2009, p. 16.

199 Micah Projects Inc., *Submission 33*, p. 4.

200 *Submission 14*, p. 4.

201 *Proof Committee Hansard*, 30 March 2009, p. 57.

2.200 Ms Walsh also discussed this issue:

> There is often an element of where churches want to assess the dysfunction of the victim in order to determine what money is going to be paid and proportionately look at what could be from the perpetrator of the abuse and what is the vulnerability of the victim. We would argue that the vulnerability of the victim means that there should be a higher rating for the abuse that has occurred, because the offender has taken advantage of that vulnerability. It should not be something that diminishes the responsibility or the outcome of the internal process.[202]

2.201 Dr Chamley had also experienced inadequate documentation of processes:

> You will have mediations where there is absolutely no paper trail—not a single document, apart from the deed of release. So there is nothing that exposes them.[203]

2.202 In some cases, there had also been a clearly inadequate division of responsibilities:

> In the case of Towards Healing, from the church side you can have the same person turning up as the facilitator before we get to mediation. They are then the mediator and then they are a psychologist—the same person—going all the way through...[204]

Inadequate compensation outcomes

2.203 Submitters and witnesses also raised concerns about the compensation outcomes being delivered by the church redress schemes. Ms Sdrinis observed that in the absence of a reasonable prospect of success of litigation—due to the legal barriers outlined above—church processes tended to deliver relatively poor compensation outcomes:

> It becomes very difficult to negotiate successfully when everyone involved in the negotiations knows that your claim will almost certainly fail if you go to court, and that affects the levels of compensation we can achieve for claimants.[205]

2.204 In comparison to settlements achieved with the State of Victoria, for example, the quantum of compensation payments made under the in-house church schemes was significantly less, and it was 'unusual for them to be of the same order' as the settlements achieved through negotiations directly with States:

> The Catholic Church compensation panel, as you would be aware, has a maximum of $55,000. You cannot do better than that. The Christian

202 *Proof Committee Hansard,* 6 April 2009, pp 28-29.

203 *Proof Committee Hansard,* 30 March 2009, p. 57.

204 *Proof Committee Hansard,* 30 March 2009, p. 57.

205 *Proof Committee Hansard,* 30 March 2009, p. 10.

> Brothers have been known to pay six-figure sums, but that is in the particularly embarrassing and difficult cases for them. Generally speaking, settlements are between $10,000 and $100,000. The Western Australian government's range of settlement is squarely within what we have been achieving just through the negotiating process.[206]

2.205 Dr Chamley believed that churches had attempted to 'coerce claimants' through offers of compensation conditional on acceptance within brief timeframes, and saw this as contributing to the tendency for unrepresented claimants to receive lower payments.[207] On this point, Ms Walsh observed:

> The benchmarking around money is significantly different in every jurisdiction and every church. In some cases people feel that private school complaints are dealt with completely differently from those of people who were in orphanages. There is often an element of where churches want to assess the dysfunction of the victim in order to determine what money is going to be paid and proportionately look at what could be from the perpetrator of the abuse and what is the vulnerability of the victim. We would argue that the vulnerability of the victim means that there should be a higher rating for the abuse that has occurred, because the offender has taken advantage of that vulnerability. It should not be something that diminishes the responsibility or the outcome of the internal process.[208]

2.206 Overall, Dr Chamley felt that the religious schemes offered compensation that was clearly inadequate to the ongoing needs of care leavers:

> If a person goes to one of these internal processes such as Towards Healing and the Anglican process, they get maybe a monetary sum and six sessions with a psychologist. So what? What they need is a whole lot of support…to help them stabilise and get a better quality of life [rather] than bouncing around in the public health and housing systems…frustrated by their self-esteem, poor reading and writing skills…[209]

2.207 Origins Inc. considered that the apparently inherent problems of in-house church redress processes were insurmountable, and did not support such schemes:

> Origins does not support this recommendation. Having been a 'support advocate' for a number of mediations we have found the client once again becomes traumatised in personally having to deal with the very organisation that abused them in the first place. We have on a number of occasions found the process of "mediation" not much more than an episode of haggling with nuns who have minimised the clients experience and have

206 *Proof Committee Hansard,* 30 March 2009, p. 11.

207 *Proof Committee Hansard,* 30 March 2009, p. 58.

208 *Proof Committee Hansard,* 6 April 2009, pp 28-29.

209 *Proof Committee Hansard,* 30 March 2009, p. 53.

> declared that they are 'poor' and cannot provide any more than a token gesture.[210]

2.208 The ACWA submitted that, because many of the original State, church and agency bodies 'no longer exist or have now heavily committed their capital assets to new areas of charitable need', the federal government was the only body with sufficient funds to ensure the availability of a meaningful reparations program.[211] However, it was acknowledged by others that a national scheme would not supplant the responsibilities of States or religious or charitable institutions, but should form part of a collective response:

> The ideal would be a national reparations fund because it would show a real commitment on the part of the federal government and an acknowledgement of the seriousness of what happened. I think that it can be done. I know it is different in that they do not have states and so on, but the Irish government showed that it can be done. Anything like this can be done if there is the political will. It would have to be a joint exercise between the federal and state governments and, probably, the past providers of institutional care.[212]

Judicial Reviews and Royal Commission

Lost Innocents Recommendation 1

That the Commonwealth Government urge the State and Territory Governments to undertake inquiries similar to the Queensland Forde inquiry into the treatment of all children in institutional care in their respective States and Territories; and that the Senate Social Welfare Committee's 1985 inquiry be revisited so that a national perspective may be given to the issue of children in institutional care.

Government response

The government supports this recommendation and will bring the recommendation to attention of the Community Services Ministers Advisory Council, acknowledging that children in institutions are the primary responsibility of the States and Territories.

The number of children in institutional/residential care has decreased markedly from approximately 27 000 in 1954 to less than 2000 currently. Most states and territories have phased out large institutions, with the majority of residential care now provided in small facilities caring for three to eight children.

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210 *Submission 2*, p. 12.

211 *Submission 28*, p. 4.

212 Dr Joanna Penglase, Co-founder and Project Officer, CLAN, *Proof Committee Hansard*, 7 April 2009, p. 41.

Implementation

2.209 *Lost Innocents* recommended the holding of State inquiries into the treatment of children in institutional care on the basis that this could lead to a better understanding of how past adverse treatment in care has 'detrimentally affected a proportion of those children'. Equally, a repeat of the Senate Social Welfare Committee's 1985 inquiry into children in institutional and other forms of care was recommended as being important to bring a national perspective to the issue,[213] and this was achieved through the holding of the Senate Community Affairs References Committee's twin inquiries into children who experienced institutional and out-of-home care.

2.210 The report recommended that State inquiries follow the model of the 1999 Queensland Forde Inquiry—the Commission of Inquiry into Abuse of Children in Queensland Institutions, chaired by Ms Leneen Forde AC. This inquiry was established to examine, inter alia, if there had been any abuse, mistreatment or neglect of children in Queensland institutions and breaches of any relevant statutory obligations during the course of the care, protection and detention of children in such institutions. The report, *Abuse of Children in Queensland Institutions*, released in May 1999, examined practices at more than 150 institutions, and also considered Queensland's contemporary child welfare, juvenile and Indigenous justice systems and legislative and departmental practices, profiles of children in care, and staffing arrangements. As with the Committee's own inquiries, the Forde inquiry heard evidence of a wide range of abuse and neglect of children in historical care, arising from both systemic failures and individual criminality. The 42 recommendations of the Forde report covered issues to do with record-keeping, institutional standards and monitoring and principles of compensation. The Queensland government accepted 41 of the 42 recommendations and committed $100 million over four years from 1999-2000 to implement responses, including the establishment of the Forde Foundation, a redress scheme and funding of the groups co-located at Lotus Place (discussed in Chapter 3).[214]

2.211 New South Wales, Tasmania and Victoria did not directly comment on the implementation of this recommendation, and the Committee is not aware of any judicial inquiries into matters of children in these States. As noted in *Forgotten Australians*, some related previous investigations in these States include:

- a 1992 report to the Minister for Health and Community Services from a committee established to review substitute care (NSW);
- a 1994 report by Cashmore, Dolby and Brennan on systems abuse (NSW);
- a 1984 report on child and youth deprivation by the Legislative Select Committee (Tasmania); and

213 *Lost Innocents*, pp 8-9.

214 *Forgotten Australians*, pp 10-12.

- a 1990 review of the redevelopment of protective services for children in Victoria by the Family and Children's Council (Victoria).

2.212 South Australia advised that it had established the Children in State Care Commission of Inquiry (the Mullighan Inquiry) which released its report, *Allegations of Sexual Abuse and Death from Criminal Conduct*, on 1 April 2008:

> The CISC made 54 recommendations in relation to training for child protection staff, carers, police, judiciary and legal representatives, legislative changes including strengthening the position of the Guardian for Children and Young People, provisions for reparation and an apology by the State and prioritisation of the hearing of criminal prosecutions involving child complainants. The Government responded in June and September 2008 in relation to actions in implementation of the recommendations.[215]

2.213 The AFA observed:

> …the Mullighan Inquiry, in being restricted to investigating sexual abuse, was more limited [than the Forde Inquiry] in its terms of reference. Any national or state inquiry should, in our view, broadly address physical, psychological and sexual abuse.[216]

2.214 Western Australia advised that it had held a review of its Department for Community Development in 2006-07, conducted by Ms Prudence Ford, 'to ensure a focus on child protection'. Western Australia created a new Department for Child Protection on 1 July, which is 'currently undergoing a major reform agenda'. The State advised that it did not intend to conduct a judicial review:

> The Western Australian Government considers that holding an Inquiry into children in institutional care in Western Australia at this time would not significantly add to the findings of the previous Senate Inquiries and the Ford Review into the former Western Australian Department for Community Development.[217]

2.215 Mr Johnston commented that former child migrants were 'disappointed' with the response to *Lost Innocents* recommendation 1, and noted that 'perpetrators of appalling degrees of childhood abuse remain free and escape justice'.[218] Mr Johnston believed that the benefits of judicial inquiry to former child migrants were still relevant:

> A judicial inquiry will give us the power, the drive and the incentive to be able to do this and achieve a good result for former child migrants. They will suddenly be believed and vindicated over everything that has happened

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215 *Submission 30*, p. 3.

216 *Submission 10*, p. 10.

217 *Submission 11*, p. 3.

218 *Proof Committee Hansard*, 8 April 2009, p. 1.

to them. There would also be a sense of relief from seeing some of these beasts brought to justice.[219]

Forgotten Australians Recommendation 11

That the Commonwealth Government seek a means to require all charitable and church-run institutions and out-of-home care facilities to open their files and premises and provide full cooperation to authorities to investigate the nature and extent within these institutions of criminal physical assault, including assault leading to death, and criminal sexual assault, and to establish and report on concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant authorities, charities and/or Church organisations;

And if the requisite full cooperation is not received, and failing full access and investigation as required above being commenced within six months of this Report's tabling, that the Commonwealth Government then, following consultation with State and Territory governments, consider establishing a Royal Commission into State, charitable, and church-run institutions and out-of-home care during the last century, provided that the Royal Commission:

- **be of a short duration not exceeding 18 months, and be designed to bring closure to this issue, as far as that is possible; and**
- **be narrowly conceived so as to focus within these institutions, on**
- **the nature and extent of criminal physical assault of children and young persons, including assault leading to death;**
- **criminal sexual assault of children and young persons;**
- **and any concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant State authorities, charities and/or Church organisations.**

Government response

The Australian Government urges state governments, charitable organisations and churches that managed or funded institutions to cooperate fully with authorities to investigate the nature and extent of criminal offences and to work in good faith to address outstanding issues.

The Australian Government considers that a royal commission into state government, charitable and church-run institutions is not appropriate. This inquiry has shown that there are a number of practical steps that can be taken to redress the experiences of children in institutional care.

219 *Proof Committee Hansard*, 8 April 2009, p. 3.

The offences dealt with under Recommendation 11 are offences under state/territory law. Any investigation of the nominated institutions is, therefore, a matter for state and territory governments.

Implementation

2.216 The *Forgotten Australians* inquiry received evidence of serious allegations of criminal physical and sexual assault of children and young persons who were in out-of-home care during the last century. The Committee was particularly concerned to hear allegations concerning concealment of past practices by religious and State officials and organised paedophilia, and this concern was reflected in the proposed terms of reference contained in the original recommendation.

2.217 The *Forgotten Australians* report also noted that children in orphanages and homes had been subjected to the use of experimental medications and drugs. The Committee received copies of documents from Mr John Pollard that allege that such practices had been occurring over many decades.

2.218 The report outlined the nature and powers of royal commissions, notably their extensive powers and procedural flexibility. It concluded that these could be appropriate for a thorough investigation of the complex issues raised by the evidence referred to above, in the event that charitable and church-run institutions did not meet certain conditions. However, the report also noted that in all cases the holding of a Royal Commission entails serious considerations around a 'range of conflicting factors', which the Committee understands to include the likely timeframe, the possible cost and, specific to the present case, the likelihood of significant outcomes in the identification and successful prosecution of crimes the subject of the inquiry.[220]

2.219 Directly referring to the conditions set out in the recommendation, Mr Andrew Murray felt that religious organisations in Australia had continued to protect or shield perpetrators of abuse, and that the reasons for the holding of a Royal Commission therefore remained compelling:

> I remain a supporter of a royal commission…Amongst the tens of thousands of religious people who are in churches and agencies that deal with children in care, there is only a minority that are criminals, but the majority protected the minority.[221]

2.220 CLAN also noted that the conditions to prevent the holding of such an inquiry had not been met, namely that the relevant institutions, agencies and facilities had not cooperated with authorities investigating historical crimes. It was further justified by their failure to adequately implement recommendations 9 and 10, which together sought the annual consolidated publication of data on all abuse complaints received to date. CLAN submitted:

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220 *Forgotten Australians*, pp 241-251.

221 *Proof Committee Hansard*, 31 March 2009, p. 29.

> …a Royal Commission is essential to fulfil the purpose…named in the Report, namely, 'to bring closure to this issue, as far as that is possible'.[222]

2.221 Miss Harrison believed that the inadequate administration of complaints processes and redress schemes had allowed many churches to avoid meaningful cooperation with investigating authorities:

> …a royal commission, while it can be long and tedious and expensive as a process, may well be the only way in which we can compel some people to come forward and talk about their response or their lack of response, and I think the churches are among those. The churches…are dodging their responsibilities, are instituting their own processes—which many forgotten Australians regard as totally inadequate…Our position is that we think a royal commission may be necessary.[223]

2.222 More generally, care leaver advocacy and support groups re-stated their arguments to the previous inquiry in support of a Royal Commission. The AFA submitted:

> …a royal commission or formal inquiry into state government, charitable and church-run institutions may be the only way to obtain the truth and to bring accountability. [224]

2.223 Broken Rites observed:

> …real progress will only come about after the conduct of a Commonwealth-initiated Royal Commission. The…commission should be broad enough to…inquire into the roles, actions and activities of state government agencies as well as charities, churches and the institutions that they operated. It must inquire into what was done to so many children, how governments, charities and churches benefited and to where these benefits were distributed.[225]

2.224 Dr Penglase felt that 'the level of criminality and cruelty will only come out in a Royal Commission'.[226]

2.225 Other witnesses emphasised separate or additional benefits to the holding of public inquiries. Mr Mullighan emphasised the important role of inquiries in providing an appropriate and public opportunity for people to tell their stories:

> …if one of [an inquiry's] functions is to provide a forum for people to be able to disclose what happened to them it would be of great value. [In the Mullighan inquiry] there were people who were still making up their minds

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222 *Submission 21*, p. 5.

223 *Proof Committee Hansard*, 30 March 2009, p. 64.

224 *Submission 10*, p. 10.

225 *Submission 14*, p. 5.

226 *Proof Committee Hansard*, 7 April 2009, p. 49.

> whether to come forward, and when they did without exception they all said that it was such a positive experience for them…because someone had listened. They had been able to make a disclosure... It is very important that people are respected in that way.[227]

2.226 However, for the purposes of allowing people to tell and to have heard their stories, such a forum did not necessarily have to be in the form of a Royal Commission:

> It does not have to be a royal commission, but I think it needs to be something that is independent—a parliamentary inquiry or similar commission…[People] need somewhere they can go that is independent, where people will listen and where anything that they have to say will be considered…It is absolutely critical.[228]

2.227 Origins Inc. also emphasised the individual and social healing potential of public inquiries, in calling for a national inquiry modelled on truth and reconciliation commission inquiries:

> A Truth Commission on the crimes committed against citizens of this country is needed.
>
> It is established that when abuses or deprivation of civil liberties by governments have been acknowledged, the climate is right to deal with the issues that come from the exposure of such human rights crimes, hence the need for a National Inquiry to gauge the level and degree of physical and mental health damage[229]

2.228 Not all submitters and witnesses supported calls for a Royal Commission, reflecting different views on its likely effectiveness and the best use of funds and resources to further the interests of care leavers. Mrs Lovely submitted:

> There are different perspectives by HAN members about whether or not a royal commission would be able to bring about the justice and healing that people are seeking.[230]

2.229 Ms Diane Tronc, HAN, explained:

> Those against having a royal commission are concerned about the expense of the commission and that there would once again be another report that is not responded to by governments. There is concern also about how many people are getting older and want action by governments sooner rather than later.[231]

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227 *Proof Committee Hansard,* 8 April 2009, p. 29.

228 *Proof Committee Hansard,* 8 April 2009, p. 33.

229 *Submission 2*, p. 21.

230 *Proof Committee Hansard,* 6 April 2009, p. 13.

231 *Proof Committee Hansard,* 6 April 2009, p. 13.

2.230 Mr Humphreys was concerned that the holding of further inquiries would only serve to further delay and frustrate action to address the well-known needs of care leavers:

> We have had enough inquiries. It is evidence. Counsellors will tell you today that new stories and new inquiries getting in the press does not help because it only revives old memories. As far as I am concerned, let's act on the ones we have already had and all the stuff we know about. You have been told it all. You have got it in writing. Act upon it. Don't let's go down the track of saying, 'Let's have a royal commission'.[232]

2.231 In response to the view that an inquiry could divert resources from care leaver services, Dr Penglase described this as being a Catch-22 insofar as 'you do not get services unless you have the inquiry'. She cited the Queensland example, where the Forde inquiry had led to significant funding for the establishment of the Lotus Place centre for care leaver support and services. In contrast, it was unclear what level of services would be funded in Western Australia, which, while it had put in place a redress scheme, had not held an inquiry.[233]

2.232 Those States that provided comment on this issue were generally in agreement with the Commonwealth in not supporting recommendation 11.

2.233 New South Wales considered a Royal Commission to be an 'unnecessary and prohibitively costly' option, and questioned whether any 'further progress regarding theses issues' would be achieved given the 'considerable research and inquiry into the abuse of children in institutional care' in NSW and other States.[234]

2.234 The Western Australian Department for Child Protection submitted:

> The Western Australian Government considers that holding an Inquiry into children in institutional care in Western Australia at this time would not significantly add to the findings of the previous Senate Inquiries and the Ford Review into the former Western Australian Department for Community Development.[235]

2.235 Discussion on the implementation of the recommendations addressed in this chapter and the Committee's conclusions and recommendations are contained in Chapter 6.

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232 *Proof Committee Hansard*, 31 March 2009, p. 45.

233 *Proof Committee Hansard*, 7 April 2009, p. 50.

234 *Submission 24*, p. 4.

235 *Submission 11*, p. 1.

CHAPTER 3

SERVICES, RECORDS AND SUPPORT GROUPS

3.1 This chapter considers some of the major issues raised in evidence concerning the implementation of the recommendations of the *Forgotten Australians* and *Lost Innocents* reports. These are:

- delivery of services;
- location and preservation of, and access to, records; and
- the role and operation of support groups.

Delivery of services

Lost Innocents Recommendation 2

That British and Maltese former child migrants be treated equally in accessing any of the services currently provided or as recommended in this report, including access to travel funding.

Government response

The government supports this recommendation and agrees that former British and Maltese child migrants should be treated equally in accessing any existing or new services proposed in this response (Refer recommendations 17 and 22).

The government, through the Department of Immigration and Multicultural and Indigenous Affairs, (DIMIA) has funded the Child Migrants Trust to provide counselling and family reunification services for former child migrants since 1990. Services provided by the Trust are open to both UK and Maltese former child migrants. The Trust provides support and assistance to approximately 750 UK and Maltese clients per year.

Implementation

3.2 A number of the recommendations of *Lost Innocents* dealt with issues relating to the delivery of services to former child migrants. Along with specialised tracing and counselling services, a particular concern was that former child migrants have access to well-designed and -funded programs to facilitate re-connection with relatives and families in their countries of origin, namely Britain and Malta. The report noted that, given the similarity of their experiences to those of British child migrants, Maltese former child migrants 'should not be differentiated in their rights to access any services provided to former child migrants'.[1]

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1 *Lost Innocents*, p. 44.

3.3 The Committee received no evidence of differential treatment of British and Maltese former child migrants in accessing services.

3.4 The Department of Immigration and Citizenship (DIAC) advised that British and Maltese former child migrants have had equality of access to services provided by the CMT since 1990. The assistance package provided by the Australian government in response to *Lost Innocents* was available to both British and Maltese former child migrants regardless of their country of origin.[2]

3.5 The Department for Child Protection (WA) submitted:

> The Western Australian Department for Child Protection fully supports this recommendation and has on all occasions provided information and services to Maltese former child migrants in the same manner as British child migrants. The Maltese child migrants form part of the Former Child Migrants Referral Index, established by the Department in partnership with former receiving agencies.[3]

Lost Innocents Recommendation 5

That the Commonwealth Government continue to provide funding for at least three years directly to the Child Migrants Trust to ensure that the specialised services of tracing and counselling are provided or accessible to former child migrants living throughout Australia.

Government response

The government supports this recommendation. The government will continue to fund the Child Migrants' Trust for the next three years at an amount of $125,000 plus associated administrative costs per annum.

Implementation

3.6 *Lost Innocents* identified the Child Migrants Trust (CMT) as a valuable support service for former child migrants, due to its 'considerable knowledge and expertise in the areas of childhood abuse and its impact on children, adult lives and relationships and subsequent generations', and particularly for its tracing and reunion services for former child migrants to establish contact and develop relationships with their families. Mr Harold Haig, Secretary, International Association of Former Child Migrants and Their Families (IAFCMF) described the CMT as a 'lifeline' forming the 'vital link' between child migrants and their families:

> [The CMT] provide a complete independent specialist family reunion and counselling service that child migrants need. They have been doing this for

2 *Submission 27*, p. 1.

3 *Submission 11*, p. 1.

> 20 years. They have the infrastructure in place to reunite families across the world, and they do.[4]

3.7 In evidence to the previous inquiry, the trust indicated it had some 700 active clients across Australia. The CMT at that time had offices in Perth and Melbourne and was seeking to further develop its services in Sydney and Brisbane, both areas of high demand for the trust's services.[5]

3.8 *Lost Innocents* closely examined the CMT's funding arrangements and found that the importance of its services and impressive track record justified the recommendation that the Commonwealth continue funding the trust.

3.9 DIAC advised that the Commonwealth government had funded the CMT for six years between 2002 and 2008:

> The Australian Government supported this recommendation. Through the immigration portfolio, the Government has committed funding totalling $825 000 over six years from 2002 to the Child Migrants Trust Inc to provide specialised family tracing and counselling services to former child migrants from the United Kingdom and Malta living in Australia.
>
> The Child Migrants Trust Inc received initial funding of $375 000 over three years from 2002 and was allocated additional funding of $450 000 in 2005 to continue providing these services for a further three years to 30 June 2008.[6]

3.10 CMT had also recently received an additional $150 000 for 2008-09.[7]

3.11 The Western Australian Department for Child Protection advised that it had also provided ongoing funded to the CMT:

> [The department]…has provided funding to the Child Migrant Trust since 1999. Recurrent funding of $77,425 per annum to 31 December 2011 has recently been approved by the Minister for Child Protection to enable the Trust to continue to provide services to Western Australian former child migrants and their descendents.[8]

3.12 CMT advised that it had not been successful in securing funding from NSW, Queensland, or South Australia.[9] Ms Margaret Humphreys OAM, International

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4 *Proof Committee Hansard,* 8 April 2009, p. 3.

5 *Lost innocents*, p. 129.

6 *Submission 27*, p. 4.

7 Mr Peter Templeton, Assistant Secretary, Settlement Branch, DIAC, *Proof Committee Hansard*, 8 April 2009, p. 48.

8 *Submission 11*, p. 2.

9 *Proof Committee Hansard,* 8 April 2009, pp 16-17.

Director, CMT, observed that the trust's historical difficulties of securing funding from State governments continued.

> In terms of state governments historically it has been very difficult for the trust. Many years ago I had meetings with state directors and forums for discussion, and they have always felt very strongly that this was a federal government issue. Of course, that has changed a little in Western Australia, which has been quite supportive. Many states truly believe that this is an issue that the federal government should pick up. It is quite difficult when we try to negotiate funding in various states.[10]

3.13 The CMT submitted that its level of funding had been insufficient to enable it to adequately meet demand for its services, particularly as this demand increased following the establishment of an Australian travel scheme for former child migrants to visit family and relatives overseas. Consequently, the CMT had been able to provide only a 'minimalist model' of service provision, consisting of restricted support for former child migrants pursuing applications through the travel fund:

> Because of the scarcity of resources to the Child Migrant Trust, most of these sorts of things [like the proposed Centre of Remembrance and Learning] have been put on hold, including research into families, the location of families and the organising of meetings. The whole lot has been restricted.[11]

3.14 Further, the trust had not been able to extend its services into other States, which continued to be serviced by the offices in other States.[12] The trust still has just two offices in Australia, in Melbourne and Perth, both staffed by one social worker.[13]

3.15 The Committee heard evidence of the continuing importance of services provided by the CMT, particularly in light of broader awareness of, and increased demand for, its services:

> The [Committee's previous] Inquiry acted as a catalyst for many former Child Migrants who had previously never sought professional help to trace their families or address painful issues of childhood abuse and loss. Many required assistance to prepare their submission; this acted as a gateway to the Trust's core services, including family tracing and counselling support…The benefits of accessing services lasted well beyond the end of the implementation of the Government's response. There was a further advantage of enhanced community and professional awareness of the child migration schemes.[14]

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10 *Proof Committee Hansard,* 8 April 2009, p. 17.

11 Mr Norman Johnston, President, IAFCMF, *Proof Committee Hansard*, 8 April 2009, p. 6.

12 *Submission 23*, pp 3-4.

13 *Proof Committee Hansard,* 8 April 2009, pp 16-17.

14 *Submission 23*, p. 1.

3.16 Mr Norman Johnston, President, IAFCMF, advised that the CMT had unsuccessfully sought recurrent or longer-term funding:

> We asked for adequate, long-term funding, for the specialist independent services of the Child Migrants Trust. Unfortunately…[this request was not] accepted…Eight years later social justice still has not been delivered to us. In our view, the spirit of the recommendations was not accepted by the government of the day.[15]

3.17 At the hearing of the inquiry in Canberra, Mr Peter Templeton, Assistant Secretary, Settlement Branch, DIAC, was unable to provide any advice in relation to future and recurrent funding for the CMT, as this question was currently under active consideration.[16] However, in additional information provided by DIAC on 19 June, the Committee was advised that the CMT had been allocated additional funds in the 2009-10 Budget. This funding is comprised of the $150 000 for the period 2008-09, noted above, plus an additional $150 000 per annum for the years 2009-10 to 2011-12. This represents funding of $600 000 for that period, and total funding of $1 425 000 over the period 2002 to 2012.

Lost Innocents Recommendation 18

That the Commonwealth Government urge the United Kingdom Government to extend its contribution to the Child Migrant Support Fund for at least a further three years beyond its anticipated end in 2002.

Government response

This recommendation will be drawn to the attention of the UK Government along with other relevant recommendations. Further funding of the Child Migrant Support Fund is a matter for the UK government to consider.

Lost Innocents Recommendation 19

That the Child Migrant Support Fund be supplemented by funding from the Australian Government, State Governments and receiving agencies; and that this funding comprise:

(a) a Commonwealth Government contribution of $1 million per year for three years initially;

(b) a combined contribution from State Governments of $1 million per year for three years initially; and

(c) a contribution from receiving agencies, and that this be funded by a levy or other means on receiving agencies not currently providing travel

15 *Proof Committee Hansard,* 8 April 2009, p. 1.

16 *Proof Committee Hansard,* 8 April 2009, p. 50.

assistance, in proportion to the number of children placed under their care as a result of the child migration schemes during the 20th century.

Government response

As an alternative to supplementing the Child Migrant Support Fund, the government will contribute towards a new Australian travel fund for former child migrants from the UK and Malta. Further details are provided in response to Recommendation 22.

Lost Innocents Recommendation 20

That the eligibility criteria for access to the Child Migrant Support Fund be broadened to:

(d) permit visits to family members and other relatives, including aunts and uncles, cousins, nephews and nieces; and for other related purposes, such as visits to family graves;

(e) be available for all former child migrants, including the Maltese and those who may have undertaken previous visits at their own expense;

(f) provide for two further visits but with a reduced level of assistance, limited to the payment of airfares and associated travel expenses;

(g) provide, in exceptional circumstances, travel funding for a spouse, child or other person as an accompanying carer; and

(h) be subject to no means-testing requirements.

Government response

Funding will be contributed by the Government towards an Australian travel fund. Funds will also be sought from State governments. Eligibility criteria will need to be determined in the context of the total pool of funds available from all sources. Refer Recommendation 22.

Lost Innocents Recommendation 21

That the Commonwealth Government, together with other stakeholders, undertake a review of its participation in the Child Migrant Support Fund after three years to determine the adequacy of funding from Australian sources for the fund and the extent of continuing demand for travel from former child migrants.

Government response

The government will seek data on the usage and effectiveness of the travel fund in order to monitor the efficacy of the scheme.

Lost Innocents Recommendation 22

That, should the Child Migrant Support Fund not be extended by the United Kingdom Government, the Commonwealth Government establish a separate

Australian travel scheme to assist former child migrants to visit their country of origin, and that this scheme be funded by contributions from the Commonwealth, State Governments and receiving agencies as detailed in Recommendation 19; and that the scheme have a broad set of eligibility criteria as detailed in Recommendation 20.

Government response

The Government supports the establishment of a new Australian travel fund and will contribute $1m per year, plus associated administrative costs, for 3 years in recognition of the importance of enabling former child migrants to return to their country of origin to re-establish connections and reunite with family members. The Commonwealth will also ask State Governments and receiving agencies to contribute to the fund.

The administration of the fund will be contracted to a suitable provider, following a competitive process. The scheme will commence in the 2002-03 financial year. Former British and Maltese child migrants who arrived under approved child migration schemes and were placed in institutional care in Australia will be eligible for the scheme.

Implementation

3.18 Recommendations 18 to 22 of the Forgotten Australians report related to the Child Migrant Support Fund (CMSF). The CMSF was established by the UK government to fund former child migrants' reunions with relatives in the United Kingdom, and it operated from April 1999 to October 2002. The scheme was run by International Social Service on behalf of the UK government.

3.19 The recommendations of the *Lost Innocents* report went to funding of the CMSF, seeking changes to its eligibility criteria, reviewing the Commonwealth's involvement in the scheme after three years and establishing an Australian scheme in the event of the fund's closure. However, rather than contribute to the UK fund, the Commonwealth undertook to establish the Australian Travel Fund (ATF).

3.20 The DIAC submission advised that the purpose of the ATF was to provide financial assistance for travel and accommodation expenses for former child migrants to reunite with surviving family members in the UK or Malta, or to visit grave sites of family members.[17] The scheme provided for one trip per applicant, and covered to and from airport travel, airfares and taxes, cost of passport application, travel costs from airport to home of family, travel insurance, accommodation and a living allowance for two weeks.[18]

17 *Submission 27*, p. 3.

18 *Submission 27*, p. 4.

3.21 The eligibility criteria for the ATF were that the applicant:

- arrived in Australia under an approved travel scheme; and
- had either successfully traced surviving members of their family who welcomed the visit or had traced family and had a gravesite to visit.

3.22 Further, the scheme:

- permitted visits to family members and other relatives including aunts and uncles, cousins, nephews and nieces; and other related purposes such as visits to family graves;
- was open to British and Maltese former child migrants including those who may have undertaken trips at their own expense;
- provided in exceptional circumstances for a spouse, child or other person as an accompanying carer to travel with the applicant; and
- was not subject to means testing.[19]

3.23 The CMT acknowledged that the eligibility criteria and other conditions of the ATF compared favourably to the UK's CMTF:

> The eligibility requirements of the travel fund were less restrictive and more compassionate than the UK scheme, acknowledging the importance of visits to parents' graves if no living relatives could be found. The frailty and vulnerability of former child migrants was acknowledged by the provision of funding for carers as escorts, when confirmed by medical/psychological assessment.[20]

3.24 The ATF ran from 2002 to 2005 with total funding of $5.5 million. This was comprised of initial funding of $3 million, which was extended by $2.5 million due to demand. The fund received 826 applications of which 771 were approved for travel, Ultimately, 703 return visits by former child migrants were facilitated.[21]

3.25 The CMT noted that the need for additional funding of the ATF had indicated an 'unappreciated demand'. However:

> Despite this large increase, the Trust continued to be restricted to grants of only $125k per year. Clearly, there was a massive imbalance in this allocation of resources, which created tremendous pressures on the Trust's staff, both in the UK and Australia, to support reunions. [22]

3.26 CMT felt that pressure on resources had 'compromised the [fund's] family restoration work'. The availability of the fund had set up 'high expectations' for many

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19 *Submission 27*, p. 4.

20 *Submission 23*, p. 2.

21 *Submission 27*, pp 4-5.

22 *Submission 23*, p. 4.

former child migrants. In combination with the 'complex and difficult' task of searching for family, the volume of applications and limited period for the scheme's operation, 'some former child migrants were denied the opportunity of a meaningful, healing reunion with family'.[23]

3.27 The IAFCMF and CMT observed that the limited period of operation of the fund had amounted to a 'lottery' and a form of 'discrimination'. This was because only those that were fortunate enough to locate their families within the prescribed period were able to take advantage of the scheme:

> If family or a close relatives' grave could be found within the allotted three-year period, they would be eligible. If not, they experienced further loss and discrimination by remaining excluded. It is always a problematic policy to try to resolve matters of social justice by means of a device which could be regarded as a lottery. The discriminatory issue relates to the arbitrary deadline imposed to complete an often complex search for family members who have been missing for more than fifty years.[24]

3.28 CMT advised that it had continued to receive clients needing assistance with family reunion after the closing of the ATF. Further, it perceived a need for assistance for former child migrants to be able to make additional trips to visit family, to continue the process of re-building family ties:

> ...there remains a steady flow of new referrals for family restoration services. This continued need arises from several sources, including the resolution of particularly complex family research, due to the poverty of data or deceit; or as a result of new referrals from those who have been isolated from mainstream services.…Resources are needed to support first time reunions alongside follow up visits.[25]

3.29 Both the IAFCMF and the CMT believed that further provision should be made for former child migrants to seek to locate their relatives and travel for the purposes of family reunion. Given the limitations and shortcomings of travel funds, particularly in terms of funding, resources and time limits, it was suggested that a reparation package for former child migrants would allow individuals more control, flexibility and choice in re-establishing and re-building family relationships. Mr Johnston explained:

> …there needs to be a reparation package where individuals can decide themselves how many times they want to go back, whether they want to stay here, or whether they want to continue the relationship, which is going to take a lot. The older we get the more difficult it is to bond, as you could probably appreciate. It gives them independence…[26]

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23 *Submission 23*, p. 4.

24 *Submission 23*, p 4.

25 *Submission 23*, p. 5.

26 *Proof Committee Hansard*, 8 April 2009, p.8.

3.30 Similarly, Ms Humphreys observed:

> …travel funds have restrictions. They impose limits…It is government money so they have to…I think that [the apology to the Stolen Generations] perhaps could lead forward to a reparation package that involves quite a few things. I suggest that could involve people making their own choices and their own decisions about whether they go back to family or not.[27]

3.31 In October 2005, International Social Service (ISS) published a report *The Journey of Discovery: A Report on the Australian Former Child Migrant Travel Fund.* The report gave a detailed overview of the Travel Fund, its limitations and the immense benefits it provided. In its recommendations, ISS proposed:

> That continued funding be provided for the former child migrant community to allow travel opportunities for those who have been unable to trace their family origins. It is important that this recommendation be acted upon promptly as many former child migrants living in Australia are elderly and do not enjoy good health.[28]

Lost Innocents Recommendation 23

That, to ensure that choice in counselling services remains available to former child migrants, the Commonwealth Government urge agencies and other State Welfare Departments providing counselling services to maintain those services and expand them where necessary.

Government response

The government supports this recommendation and will refer it to the Community Services Ministers Advisory Council for consideration by State and Territory governments. Former child migrants currently have access to counselling services available in states and territories from government and non-government counselling organisations.

Implementation

3.32 The issue of counselling services for care leavers generally is addressed in the consideration of the implementation of recommendations 20 to 23 of the *Forgotten Australians* report (see below).

Forgotten Australians Recommendation 21

That all State Governments, Churches and agencies provide a comprehensive range of support services and assistance to care leavers and their families.

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27 *Proof Committee Hansard*, 8 April 2009, p.15.

28 *The Journey of Discovery*, ISS Australian Branch, October 2005, p.2.

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports a process that is based on an assessment of need and an identification of gaps in existing services. These matters could be further discussed at appropriate Ministerial Councils.

Implementation

3.33 *Forgotten Australians* concluded that there was a serious lack of services available to address the needs of care leavers; and that governments at all levels, as well as the non-government sector, needed to urgently address this matter. Services provided by the States were found to be limited and generally restricted to those who were ex-residents of particular institutions in a given State.

3.34 Services provided by the churches and agencies were found to vary widely, and levels of funding difficult to ascertain. Provision of church services was also problematic in that many care leavers were reluctant to utilise services offered by organisations associated with the abuse and neglect of former residents.[29]

3.35 Care Leavers Australia Network (CLAN) submitted that the response to recommendation 21 had been poor, noting that the provision of services by the States was still 'limited'; and that these had generally been provided in response not to the recommendations of the *Forgotten Australians* report but to State inquiries:

> With the exception of VANISH in Victoria, services which do exist in fact have not come out of the Senate inquiry, but out of state inquiries - which means that in effect there has been no take-up of this recommendation.[30]

3.36 Mr Frank Golding, Vice-President, CLAN, felt that, although there was perhaps now a more refined understanding of the needs of care leavers, in terms of services, 'in many instances we are no closer than we were all those years ago'.[31]

3.37 Submitters and witnesses emphasised that the need for care leavers to be able to access a comprehensive range of support services and assistance was still critical. Ms Karyn Walsh, Coordinator, Esther Centre, stressed that care leavers were a very diverse group with a commensurately broad range of needs,[32] and observed:

> Healing is really a combination of what pathway people personally choose and the services that are available. We stress the need to learn from the evidence of what has worked in different areas and what needs to be built

29 *Forgotten Australians*, p. 52.

30 *Submission 21*, p. 11.

31 *Proof Committee Hansard*, 30 March 2009, p. 17.

32 *Proof Committee Hansard*, 6 April 2009, p. 35.

> upon now, but really make sure that the scope of services and the framework for service delivery is across the broad perspective.[33]

3.38 Miss Eris Harrison, Senior Policy Manager, Alliance for Forgotten Australians (AFA), observed that care leavers and their families had ongoing care needs, and noted the importance of establishing services that could be available for care leavers of all generations:

> Setting something up and just saying, 'We're going to deal with the issues of today and the people who leave care now,' is good, it is fine, but it does not go far enough. We think that there should be a continuum of care for people who have been damaged in out-of-home care and it should extend from people who leave care now to all the people who have left care at any time in the past.[34]

New South Wales

3.39 The NSW Department of Community Services (DoCS) advised the Committee that it 'provides or funds a number of services to assist and support people who grew up in institutional care', relating to advocacy and support groups; support services; counselling; health care, housing and aged care programs; and education.[35]

3.40 Concerning recommendations not supported by NSW, Ms Linda Mallet, Acting Deputy Director-General, Service System Development, DoCS, advised that the State had generally not supported recommendations relating to services for care leavers where this would have resulted in duplication of existing services:

> Generally, recommendations which were not supported related to the establishment of additional systems or services for people who experienced institutional care as children which would duplicate existing services or systems that were available to them as members of the New South Wales public.[36]

3.41 The Committee heard that DoCS funds a branch of the Aftercare Resources Centre (ARC), a specialist service of Relationships Australia, available for people over 25 who have experienced care in NSW. The ARC's services included a telephone helpline, information, counselling, advocacy, assistance with file readings and also family reunions. The ARC's services are available to NSW care leavers Australia-wide.[37]

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33 *Proof Committee Hansard,* 6 April 2009, pp 27-28.

34 *Proof Committee Hansard,* 30 March 2009, p. 66.

35 *Proof Committee Hansard,* 7 April 2009, p. 70.

36 *Proof Committee Hansard,* 7 April 2009, p. 69.

37 Ms Linda Mallet, Acting Deputy Director-General, Service System Development, Department of Community Services (NSW), *Proof Committee Hansard*, 7 April 2009, p. 70.

3.42 The ARC's funding covers a permanent part-time counsellor for three days a week; it also receives funding to provide some brokered counselling to enable counselling services to be provided to people outside metropolitan areas. Mrs Julie Holt, Counsellor, advised that the ARC had successfully lobbied for increased funding and would be staffed at a full-time level and have increased brokered counselling services from 2009-10.[38] The ARC had received $193 729 in non-recurrent funding (that is, for 12 months), which was problematic for forward planning:

> It is very difficult. We do the broker counselling and we organise X number of people, but we do not know how many clients will approach us. We have had to establish waiting lists because the funding is getting very close to the bone.[39]

3.43 DoCS also provides recurrent funding to the Salvation Army Special Service to assist older care leavers to locate their families. It also funds an Indigenous organisation called Link-Up Aboriginal Corporation to provide support to Aboriginal people separated from their families as children to reconnect with family and kin.[40]

3.44 In March 2008, DoCS announced funding for CLAN to support its work in advocacy support and information for care leavers.[41]

3.45 Ms Mallet advised that the New South Wales government was 'serious' about examining existing funding arrangements in this policy area:

> Justice Wood also brought matters to our attention during a recent inquiry that he conducted into child protection in New South Wales in relation to funding. The government's has put on the record that it is serious about taking a look at funding arrangements in New South Wales.[42]

3.46 Dr Penglase, however, questioned the extent of the State's funding commitment to services for care leavers noting, for example, that CLAN had received just $105 000 in total over the period of its operation. NSW's performance also compared unfavourably with Victoria's recent allocation of $7.1 million for a new care leaver service.[43]

Queensland

3.47 *Forgotten Australians* noted that the Queensland government at that time contributed to the funding of four entities that provided specific services for former residents: the Forde Foundation, the ARC (Queensland), the Esther Centre and the

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38 *Proof Committee Hansard,* 7 April 2009, p. 73.

39 *Proof Committee Hansard,* 7 April 2009, p. 56.

40 *Proof Committee Hansard,* 7 April 2009, p. 70.

41 *Proof Committee Hansard,* 7 April 2009, p. 70.

42 *Proof Committee Hansard,* 7 April 2009, p. 82.

43 *Proof Committee Hansard,* 7 April 2009, pp 43-44.

Historical Abuse Network (HAN).[44] On 3 May 2006 these four organisations were brought together in one premises in South Brisbane, known as Lotus Place.

3.48 The Queensland government:

> The Department of Communities currently provides approximately $900,000 in funding on a triennial basis to support the delivery of support services through Lotus Place…Lotus Place serves as a 'drop in centre' for former residents and was established through the co-location of existing funded services in May 2006. The department provided an additional funding allocation of approximately $600,000 to facilitate the establishment of the centre.
>
> Since the commencement of the Redress Scheme in October 2007, Lotus Place services have been extended to include a centralised information, referral and assistance service for people seeking to lodge a Redress Scheme application. The department has made additional one-off funding allocations in 2006/07 and 2008/09 to support the provision of these services.[45]

3.49 The Forde Foundation is a charitable trust established in 1999 in response to the report of the Forde inquiry. The foundation distributes monies to former residents of Queensland institutions and to State wards who were placed in foster care, with grant rounds taking place usually once or twice a year. Eligible persons may apply for financial assistance for education, health, family reunion and basic necessities. The foundation is not a compensation fund and amounts paid to successful applicants are generally quite low; the average grant in 2008, for example, was $563. Over $1.8 million has been distributed over 12 grant rounds.[46]

3.50 Mr Terry Sullivan, Former Chair, Board of Advice, Forde Foundation, advised that the foundation had more recently established a dental scheme for care leavers:

> [The] dental scheme, which we fund, which gives priority access to former residents. I know from the way it works that we get more bang for our buck out of that $500 per grant to former residents than would be received through any other means.[47]

3.51 In relation to funding, the Forde Foundation advised:

> In 2000 and 2001, the Queensland Government contributed a total $2million to the Trust Fund. Church organisations contributed $90,000 and

44 *Forgotten Australians*, p. 288.

45 *Submission 15*, p. 5.

46 *Submission 13*, attachment 3, p. 1.

47 *Proof Committee Hansard*, 6 April 2009, p. 62.

> there have been a small number of private donations. The Government gave a further $900,000 in 2005 and $1.25million in 2006.[48]

3.52 The ARC is provided by Relationships Australia (Queensland). The ARC is responsible for provision of direct and brokered counselling services in Queensland and interstate (which enables counselling services to be provided to people outside metropolitan areas), assistance with educational opportunities, record searches, family reunions and advice on support groups.

3.53 In relation to funding for the ARC, Ms Rebecca Ketton, Manager, ARC, advised:

> …the Queensland government provided funding to Relationships Australia Queensland to provide counselling and support to adults who had been institutionalised as children in State-run homes and religious orphanages in Queensland. The program known as the Aftercare Resource Centre has been operational for almost 10 years and to date has 860 clients registered.[49]

3.54 Three-year State funding for brokered counselling was due to expire in 2009.[50]

3.55 The Esther Centre (Centre for Addressing Abuse in Human Services and Faith Communities) provides support for people who have experienced physical, sexual, emotional and spiritual abuse in church institutions, faith communities and human services.

3.56 HAN is an informal network of former residents of church and government institutions that was established to support people who had experienced abuse within those institutions. It meets regularly, holds forums and provides resources to support people.

3.57 In terms of service levels, Dr Wayne Chamley, Broken Rites, felt that Queensland was the only State in which services had improved since publication of the *Forgotten Australians* report.[51] However, Mr Michael Collins felt that Queensland was not adapting its services well to the needs of care leavers, particularly as they changed over time:

> The Queensland government has not adhered to the spirit of the recommendations of the *Forgotten Australians* inquiry. Indeed, it has not

48 *Submission 13*, p. 2.

49 *Proof Committee Hansard*, 6 April 2009, p. 38.

50 *Proof Committee Hansard*, 6 April 2009, p. 45.

51 *Proof Committee Hansard*, 30 March 2009, p. 53.

> the ability to adapt to the changing circumstances of the recommendation of its own Forde report. Over time, former residents' priorities will change.[52]

3.58 The Committee heard that the operation of the Queensland redress scheme had led to growing pressures on existing services for care leavers. Mr Sullivan advised that since the scheme began the number of care leavers registered with the Forde Foundation had gone from 1300 to, potentially, 10 000.[53] Similarly, Ms Ketton noted that the ARC's number of registered clients had increased by 20 per cent in the last year.[54]

South Australia

3.59 The South Australian government submission outlined the range of services available to Forgotten Australians and other care leavers in that State. Services available through Families SA, Post Care Services, include:

- information, advocacy, referral and support services to care leavers over the age of 18 years;
- assistance to individuals to access and view personal records, conduct family searches and prepare for reunions;
- assistance with negotiations concerning service delivery, including accessing brokerage and financial assistance, counselling, housing, having health and education needs met;
- assistance in the development of life skills; and
- case management assistance and brief counselling where referral to an alternative service is not appropriate.[55]

3.60 Services for care leavers aged between 15 and 25 years—a range unlikely to include most Forgotten Australians—were also provided through Families SA, Youth Support Service, including:

- holistic programs designed to develop young people's social, emotional and financial support to transition into independence from State care, such as practical life skills, further education advice, tenancy training, housing and development of formal and informal community support networks; and
- priority access to service.[56]

3.61 In relation to funding and provision of counselling the South Australian submission states:

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52 Private capacity, *Proof Committee Hansard*, 6 April 2009, p. 64.

53 *Proof Committee Hansard*, 6 April 2009, p. 4.

54 *Proof Committee Hansard*, 6 April 2009, p. 38.

55 *Submission 30*, p. 7.

56 *Submission 30*, p. 7.

- the Department for Families and Communities provides funding for care leavers to assist with counselling and to develop a pool of suitably experienced counsellors;
- Post Care Services will locate counselling for care leavers regardless of their location;
- provision of counselling is guaranteed for 'up to 12 months; and
- the provision of a free call 1800 number facilitates access to specialist support services for care leavers in regional areas.[57]

3.62 Commenting on the performance of Post Care Services, Mr Ki Meekins reported:

> They are grossly under staffed, under financed, under resourced…The whole service demands a major boost in staffing, funding, and resource levels enabling Post Care Service to cater for the large amount of Forgotten Australians knocking on their door.[58]

Tasmania

3.63 Tasmania provided only a general comment on support services available for care leavers in that State:

> Staff of my Department continue to assist Child Migrants and their descendants, who apply to have access to their files, or who want to trace family members. My staff liaise closely with specialist Child Migrant groups both interstate and overseas. It would appear that the numbers of Child Migrants contacting my Department have dwindled significantly in recent years, significant numbers contacted between 2003 and 2005.[59]

Victoria

3.64 Evidence to the inquiry indicated that provision of services for Forgotten Australians in Victoria had been inadequate since the release of the *Forgotten Australians* report. Mr Golding noted:

> Thirty per cent of…[calls to CLAN] come from this state of Victoria. The volume of calls makes it clear that, whatever state services are available for care leavers, they are demonstrably not adequate for the demand…[60]

3.65 Ms Michele Greaves felt there was a lack of information on such services in the State; and a dental scheme that had been established for Forgotten Australians was not working effectively:

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57 *Submission 30*, pp 7-8.

58 *Submission 44*, p. 4.

59 Minster for Human Services, *Submission 7*, p. 1.

60 *Proof Committee Hansard*, 30 March 2009, p. 15.

> In Victoria there seems to be no information. You cannot find out anything, even about a scheme that there is at the moment—the dental scheme. People on our site have tried to access the dental system for forgotten Australians, but you have to be extremely ill to be able to access it, so that system really is not in place for us in Victoria. We had really bad dental health care as children, if we had it at all, and a lot of us getting sick with our dental, because it does have a physical effect on your body, but now there is a system in place that is not working.[61]

3.66 While the Victorian government declined to make a submission to the inquiry, the Committee notes that since 1997 the Victorian Department of Human Services has funded VANISH—an existing organisation that provided search and support services for people separated from their family of origin—to assist care leavers. VANISH has since provided a number of services for care leavers including conducting searches, support and counselling for accessing records, providing one on one support, facilitating regular support groups and conducting regional information and discussion groups for care leavers.[62] Ms Maureen Cleary, Manager, explained the organisation's history of work with care leavers:

> …[In 1997 VANISH was] funded by the Victorian Department of Human Services to provide services to forgotten Australians…Initially this was to search for family members and to provide support for forgotten Australians through that process. From 2003 the Department of Human Services provided brokerage funding through VANISH that was specifically targeted for counselling services for forgotten Australians...
>
> The demand for these services increased considerably following the formal apology made to forgotten Australians by the Victorian parliament in August 2006. This increase in demand was recognised by a significant increase in funding to VANISH in 2006 for counselling and support services.[63]

3.67 VANISH also offers a number of other services such as a travel reunion fund, social and support groups, and life and computer skills programs. VANISH representatives emphasised that a great many other interactions occurred over such things as late bill payments and police interactions—indicating the very wide range of services required for care leavers.

3.68 However, following the Victorian government's 2008 announcement of new funding for counselling and support services for care leavers (see below) the Committee was advised that VANISH had decided not to tender for the funds, and would cease provision of services to care leavers from 30 June 2009.[64] Ms Caroline Carroll, Senior Forgotten Australian Worker, observed:

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61 Private capacity, *Proof Committee Hansard*, 30 March 2009, p. 44.

62 *Proof Committee Hansard*, 30 March 2009, pp 78-79.

63 *Proof Committee Hansard*, 30 March 2009, p. 77.

64 *Proof Committee Hansard*, 30 March 2009, p. 77.

> VANISH was set up for the adoption community. I think the time had to come when forgotten Australians moved away from an organisation run predominantly for adoption. Most of the board is from the adoption community and it is time, I think, for forgotten Australians to look for a home where they are recognised in their own right and the focus is on their needs.[65]

3.69 On 6 May 2008 Victoria committed $7.1 million in funding for services for care leavers over the next four years, intended to 'support and assist care leavers who have experienced significant disadvantage'.[66] Ms Coleen Clare, Chief Executive Officer, Centre for Excellence in Child and Family Welfare (CECFW) outlined the scope of the services to be covered by the new Victorian funding:

> It is a new service for people who grew up in care in Victoria who may have suffered harm and abuse. It is for the coordination and provision of assistance to address the needs of forgotten Australians. It will provide a single access point for obtaining advice on accessing available services, including housing, mental health, aged care, counselling, alcohol and drugs, literacy and numeracy, dental and medical services, peer support and support from professionals; search and support services, including locating siblings; developing life skills; and support for families of carers, including counselling and—this last and interesting point—information about claims processes and referrals for assistance with legal claims.[67]

3.70 Mr Golding, however, noted that in comparison to some of the financial commitments made by other States, the Victorian funding was relatively modest:

> …many of the Victorian members of CLAN…take a pretty cynical view of this initiative. If you place the total allocation of $7.1 million over four years alongside the redress schemes of the other states, you see the perspective.[68]

3.71 There was also some concern about what proportion of the funding would be available for direct provision of services.

> …it is not really a lot of money, because someone will have to establish offices. It is not a lot of money to go around to us at all. A lot more needs to be done. It is a nice start, but we need a lot more.[69]

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65 *Proof Committee Hansard*, 30 March 2009, p. 84.

66 Department of Human Services (Victoria), 'Care leavers (forgotten Australians)', http://www.cyf.vic.gov.au/placement-support/care-leavers-forgotten-australians, accessed 4 June 2009.

67 *Proof Committee Hansard*, 30 March 2009, pp 36-37.

68 *Proof Committee Hansard*, 30 March 2009, p. 17.

69 Ms Michele Greaves, private capacity, *Proof Committee Hansard*, 30 March 2009, p. 49.

3.72 The Committee heard that, since the announcement of the funding for services, provision of services had remained poor; action on instituting new services had been 'extraordinarily slow':

> Since that announcement was made in early May of 2008 not one single service has actually resulted from that announcement. There has been a long period of consultation. Many of us felt the consultations had been conducted through the Senate inquiry. Your recommendations 20 through to 33 deal in detail with those sorts of services that should be provided by the states. Nevertheless, they said they should consult with care leavers about this and we are no wiser and no better served at the present date, as I sit here before you in March of 2009, than we were when the government announced $7.1 million to be spent over four years.[70]

Western Australia

3.73 The Western Australian Department for Child Protection noted that, in addition to the establishment of a redress scheme and some funding of support groups, the department provides assistance to care leavers with access to records. The department also provides counselling for people who experienced abuse in out-of-home care, through departmental psychologists and social workers or, in exceptional circumstances, through external counsellors.[71]

3.74 From 1997 to December 2005 a range of services was also provided to care leavers by Christian Brothers Ex-Residents and Students Services (CBERSS), an organisation established and funded by the Christian Brothers as an independent organisation to provide for the needs of ex-residents of Christian Brothers institutions, regardless of the State in which they reside. Its services included family tracing, literacy classes, no-interest loans, counselling, and funded travel for family reunification. In January 2006, in response to declining demand from its members, CBERSS was changed to a part-time consultancy, now known as CBERS Consultancy (CBERS). The new service model of CBERS involves provision of ongoing counselling; maintaining a source of news and information; and a separate social network organised and run by its members.[72]

3.75 Mr Frank Quinlan, Executive Director, Catholic Social Services Australia (CSSA), praised the model of service delivery provided by the former CBERSS as 'best practice':

> Regarding the provision of support services…there are several examples of best practice, including…CBERSS, in Western Australia…It does not hold records relating to the homes and orphanages, but does apply on behalf of people who were in care to access these record holdings from agencies in

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70 Mr Frank Golding, Vice-President, CLAN, *Proof Committee Hansard*, 30 March 2009, p. 17.

71 *Submission 11*, p. 7.

72 CBERS Consultancy website, 'A new beginning', http://www.cbers.org/begin.html, accessed 4 June 2009.

> Western Australia. The CBERSS model of service provision relates to four main areas: reunification with separated families, individual and family counselling, financial assistance and adult literacy programs.[73]

3.76 In terms of funding, the CBERS submission explains:

> CBERS provides services that are funded by the Christian Brothers, the Sisters of Nazareth and the Sisters of Mercy as required. It also gains funding through Redress WA, via the charitable institution the Edmund Rice Centre Mirrabooka Inc. In its entire history, CBERS has never been able to access Commonwealth funding and the State government funding only came about with Redress WA.[74]

Churches and agencies

3.77 As with the original inquiry, the Committee received very little information on past and current provision of funding for services by the churches. However, it appeared that churches had continued to make relatively modest contributions to services for Forgotten Australians. Ms Walsh advised:

> There have been some small amounts of money given, through a day that was marked to collect funds, but generally forgotten Australians and other stakeholders have been disappointed at the lack of investment following the Forde inquiry by any of the churches.[75]

3.78 As noted above, in Western Australia CBERS has provided a range of services for ex-residents of Christian Brothers' institutions since 1997.

Commonwealth support for services

3.79 Ms Walsh felt there was a need for national frameworks and initiatives to coordinate the delivery services to care leavers through the State systems :

> We look forward to a much more national framework where we are not operating as a service system in isolation from the other major initiatives that are going on within government and where forgotten Australians, as a target group of people with specific needs, can actually hit the agenda a bit more with the Social Inclusion Board, with human rights consultation and with the reforms that are happening under disability.[76]

3.80 Ms Cate McKenzie, Group Manager, Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), stressed that States and Territories were responsible for child protection issues, and hence the 'development of policies and service delivery processes' to implement recommendation 21 of

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73 *Proof Committee Hansard*, 7 April 2009, p. 61.

74 *Submission 3*, p. 23.

75 *Proof Committee Hansard*, 6 April 2009, p. 30.

76 *Proof Committee Hansard*, 6 April 2009, p. 31.

Forgotten Australians.[77] However, she pointed to a number of Commonwealth service initiatives that, while not specifically created or designed for care leavers suffering from historical abuse, supported the Forgotten Australians 'more broadly'. These included:

- a new family support program; Forgotten Australians would be consulted in the development of guidelines 'to ensure that their experience and needs are recognised';
- the Personal Helper and Mentors program (PHaMS), which recognised Forgotten Australians as a 'priority group';
- the Better Access to Psychiatrists, Psychologists and General Practitioners program, a program that increases community access to mental health professionals and team based mental health care.[78]

3.81 In addition, Ms Mackenzie advised:

> Government support for Forgotten Australians also extends to a range of Commonwealth payments. In addition, Forgotten Australians are able to access a broad range of Commonwealth funded or provided services, including health, housing and counselling support, and a range of concession cards.[79]

3.82 Ms Allyson Essex, Branch Manager, FaHCSIA, commented that Commonwealth government programs offered a range of service choices for care leavers:

> In relation to Commonwealth government programs, by providing a diversity of providers and choice of provider—allowing people to choose the provider that they access—we hope to give people a range of choices that allows them to choose a suitable provider and a suitable range of services. It is important to recognise that Commonwealth funded services also work with state and local government funded services, and some services that are funded by the third sector. It is important to see those services as a whole that are available to people.
>
> …There is a range of programs that are funded that aim to support people in a range of different ways. Those programs are not restricted to any one provider. In a geographical location, using the combination of state and local government services—Australian government services and other services, we see that there is a variety of choices open to most people. There are geographical areas in which that might not be the case. For example, it is difficult to have choice and multiple providers in some rural and remote areas, but wherever possible we seek options for people.[80]

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77 *Proof Committee Hansard,* 8 April 2009, p. 57.

78 *Proof Committee Hansard,* 8 April 2009, pp 57-59.

79 *Proof Committee Hansard,* 8 April 2009, p. 59.

80 *Proof Committee Hansard,* 8 April 2009, pp 65-66.

Involvement of perpetrator organisations in service delivery

3.83 Many submitters and witnesses commented on the issue of delivery of services by departments, agencies and organisations that had in the past been perpetrators of abuse and neglect. Dr Chamley commented:

> Some wisdom needs to prevail about the appropriate non-government setting in which to offer access to new initiatives. It should not be church based, because it excludes people that are in the room here. Their post-traumatic stress disorder is such that they cannot even walk past a church, so how are they going to go to Salvation Army housing services? They will not even get up to the front step. That needs some very careful thinking through.[81]

3.84 However, other witnesses felt that carefully weighted involvement of such entities was appropriate:

> It really seems appropriate to me that they come forward and that they say…'We want to work with you to make up for what happened to you in the past.' But they also have to recognise the importance of not, for instance, insisting that people go to a church for the first support group meeting or anything like that. They have to recognise that there are probably some forgotten Australians who will find it very difficult to cross that boundary. How such services are established would be tremendously important, but I do not think we should rule them out altogether by any means.[82]

3.85 Ms Carroll observed that, on a practical level, the barring of entities with histories of perpetrating abuse would remove many of the major organisations involved with the delivery of health and other services:

> …given that most of these organisations are still working in the sector, it is difficult to imagine another organisation being able to work with forgotten Australians.[83]

3.86 Further, the exclusion of such organisations could have a particular impact on rural and regional areas or in the smaller States such as South Australia:

> …we have a particular problem in South Australia in attracting other non-government organisations, particularly non-church ones, to the state. The population basis here is quite small for a number of community services.[84]

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81 *Proof Committee Hansard,* 30 March 2009, p. 54.

82 Miss Eris Harrison, Senior Policy manager, Alliance for Forgotten Australians, *Proof Committee Hansard*, 30 March 2009, p. 72.

83 *Proof Committee Hansard,* 30 March 2009, p. 72.

84 Ms Julieanne Petersen, Manager, Policy and Strategy, Alternative Care, Families SA, *Proof Committee Hansard*, 8 April 2009, p. 40.

Forgotten Australians Recommendation 22

That all State Government funded services for care leavers be available to all care leavers in the respective State, irrespective of where the care leaver was institutionalised; and that funding provisions for this arrangement be arranged through the Community and Disability Services Ministerial Council.

Government response

This is a matter for state and territory governments. The Australian Government supports the recommendation in principle and urges state and territory governments to continue to ensure access to services is provided for care leavers who have moved interstate.

Implementation

3.87 *Forgotten Australians* found that only Queensland, New South Wales, Victoria and Western Australia provided specific services for care leavers, and that these services were limited. As shown above, there are still marked differences in the scope and levels of services available across these States. South Australia has since provided some services through Post Care Services. The AFA observed :

> …[Provision of services] is happening, if at all, very unevenly. NSW gives funding to ARC for limited counselling but does not appear to provide any other targeted services. Queensland, on the other hand, offers a good range of services, including a drop-in centre, through Lotus Place in Brisbane. The other States fall in between these extremes…[85]

3.88 In addition, the report found that services were generally limited to people who had been residents of the particular institutions in a given State. This had posed problems for care leavers who had moved interstate and could not access services in their new State of residence.[86]

3.89 The current inquiry heard that the problem of inconsistent availability of services for care leavers across the States persists, with services generally restricted to people who experienced care in a particular institution in a given State. For example, Ms Deborah Findlay explained:

> I have family that live in Queensland that get no assistance, no support, because they were raised here in Victoria, and vice versa. We have forgotten Australians that live in Victoria that were brought up in New South Wales or wherever and they are turned away. We should be supporting forgotten Australians. It does not matter where you come from.[87]

85 *Submission 10*, p. 14.

86 *Forgotten Australians*, p. 52.

87 Private capacity, *Proof Committee Hansard*, 30 March 2009, p. 46.

3.90 Mrs Gloria Lovely, a member of HAN, provided a view that was also typical of care leavers:

> I would like to add what I feel, and I think that every person that was in an orphanage as a child, should be able to get some services from the Australian Government…[What] I'm saying is, if people were in Qld homes or orphanages in other states, but they are living in Qld, they should be able to get help in Qld, it does not matter what state they were brought up in, they should get help wherever they are living now if services are available …[and] regardless of what state or orphanage they were brought up in.[88]

3.91 The AFA submitted:

> One significant problem with the state-by-state response is the difficulty survivors have in accessing services and support across state boundaries. Each state sees its responsibility as being to its own survivors. Forgotten Australians frequently move out of the state where they suffered abuse, hoping to put the past behind them to some extent. They then find that they cannot easily access the support technically available to them.[89]

3.92 In Queensland, Ms Ketton offered some insight into the processes involved where clients were seeking access to services from outside the State in which they received out-of-home care:

> We have had a number of clients who have been institutionalised in other states who have sought counselling and support from our service. The existing pathways can cause confusion and delays for clients. The process requires clients to first and foremost become clients of other services in their respective states. This service will then contract us to provide the counselling. This process can be prolonged and is not possible when funding is not available in particular states. Clear pathways and access to federal funding could ensure improved access to services in a more timely and appropriate manner.[90]

3.93 Ms Ketton advised that there had been 'a couple of clients' that had been unable to access services on the basis of such arrangements in approximately the previous 12 months.[91] The Department of Communities (Queensland) commented:

> The primary focus of Lotus Place services is direct service delivery to people who were in out-of-home care in Queensland. Interstate care leavers who reside in Queensland can access information and referral services and participate in Historical Abuse Network activities and events. Lotus Place service providers also work with other Jurisdictions on a case by case basis,

88 *Submission 59*, p. 1.

89 *Submission 10*, p. 3.

90 *Proof Committee Hansard*, 6 April 2009, p. 40.

91 *Proof Committee Hansard*, 6 April 2009, p. 44.

> to assist state wards from other jurisdictions who reside in Queensland to access appropriate support services funded by the state of origin.[92]

3.94 In other cases, some State services continue to be available to those who received out-of-home care in that State, even where a care leaver now resides in a different State. For example, Ms Julieanne Petersen, Manager, Policy and Strategy, Alternative Care, Families SA, Department for Families and Communities, noted:

> We have had a number of inquiries from people who have since moved interstate for their background records, support or in fact therapeutic counselling or medical care. It makes no difference to us where they live now. If they were in care in South Australian then they are fully entitled to the support services from Post Care Services.[93]

3.1 Where a person resident in SA had received care in another State, Post Care Services would 'advocate for and facilitate service provision by the respective State'.[94]

3.95 The response of the Tasmanian Minister for Human Services appeared to indicate that care leaver services in that State were restricted to people who received care in Tasmania:

> My Department continues to support care leavers, (regardless of when they were in care) who contact the Department seeking information…[95]

3.96 The NSW government offered support for national arrangements to facilitate access to services across the States:

> There may be merit in national or bilateral state reciprocity protocols for care leavers who move to other states.[96]

3.97 Western Australia also offered 'in-principle support' for recommendation 22.[97]

Funding coordination through the Community and Disability Services Ministerial Council

3.98 In relation to the implementation of recommendation 22 through the Community and Disability Services Ministerial Council (CDSMC), FaHCSIA submitted:

> Jurisdictions were to complete a template, requesting information on state government funded services and forward this to the QLD Department of Communities. The template was completed, however contact needs to be

92 *Submission 15*, pp 6-7.

93 *Proof Committee Hansard*, 8 April 2009, p. 42.

94 *Submission 30*, p. 7.

95 *Submission 7*, p. 2.

96 *Submission 24*, p. 8.

97 *Submission 12*, p. 10.

> made with the QLD Department of Communities to progress this information.
>
> FaHCSIA is not aware of further action.[98]

3.99 The submission of the Queensland government suggested that the commitment to coordinating State delivery of services through the CDSMC had stalled, if not been abandoned altogether. It noted that in response to *Forgotten Australians* the State had 'committed to work through the CDSMC on the issue of a national response to recommendations of ongoing cross jurisdictional interest'. However, only 'limited outcomes' were achieved due to 'different stages of jurisdictional actions and local issues impacting on the level of involvement by jurisdictions'. The Queensland Department of Communities advised:

> The Department of Communities is interested in resuming cross jurisdictional discussions on the Committee' recommendations, particularly those that relate to whole of government policy areas…[99]

3.100 However, the NSW government felt that 'as the CDSMC does not have a stand alone budget…[the CDSMC] may not be the most appropriate way to progress this proposal'.[100]

3.101 On the failure of the CDSMC process to date, the AFA commented:

> This issue was, we understand, discussed by CDSMAC, but there has been no resolution. State and Territory Governments have made no apparent effort to resolve the differences or to broker solutions. There is clearly a role here for the Australian Government, and it goes beyond offering in-principle support to playing an active role in brokerage, in establishing agreed guidelines and in offering whatever support is necessary to achieve lasting consensus on the issue of cross-border support.[101]

3.102 The AFA still saw a role for the Commonwealth in brokering solutions, establishing agreed guidelines and offering support for the States to come to agreement on the issue of cross-border provision of services:

> An important role for the Commonwealth and for COAG is to resolve this issue, preferably by ensuring that the highest standards of service provision are available in each State and Territory and by implementing a brokerage system or central funding body to enable Forgotten Australians to access those services, wherever they live.[102]

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98 *Submission 4*, p. 13.

99 *Submission 15*, p. 7.

100 *Submission 24*, p. 8.

101 *Submission 10*, p. 14.

102 *Submission 10*, p. 3.

3.103 Members of Wings for Survivors observed that services for care leavers were particularly hard to access for people living in rural and regional areas, such that there was generally inconsistent access to services even within a State.[103] Ms Ketton also noted that rural areas tended to lack centralised services offering convenient access for care leavers:

> …if some of the other regional centres were to have a larger funded service or at least something similar to what we have in Brisbane, I think that would engage the former residents in the regional community much more easily.[104]

Forgotten Australians Recommendation 23

That all State Governments, Churches and agencies fund counselling services for care leavers and their families, and that those currently providing counselling services maintain and, where possible, expand their services including to regional areas. The counselling services should include:

- **the extension of specialist counselling services that address the particular needs of care leavers;**
- **their provision to clients on a long-term or as required basis; and**
- **the provision of external counselling as an option.**

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Implementation

3.104 *Forgotten Australians* found that the provision of counselling services was of critical importance to enable care leavers to deal with the trauma of past institutional care experiences; the acute difficulties in forming and maintaining relationships; difficulties associated with access to personal records; and pre- and -post family reunion.[105]

3.105 The ACWA commented that the issue of counselling service provision is 'arguably the one of greatest significance to care leavers and their families'.[106] However, the Committee heard that counselling services for care leavers remain limited and inconsistent across the States and religious organisations.

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103 *Proof Committee Hansard*, 30 March 2009, p. 48.

104 *Proof Committee Hansard*, 6 April 2009, p. 43.

105 *Forgotten Australians*, p. 305.

106 *Submission 28*, p. 5.

3.106 CLAN submitted:

> There are limited care leaver…counselling services in Victoria, New South Wales, South Australia and Queensland. Western Australia has no dedicated service for care leavers...[107]

3.107 The AFA submitted:

> This is another issue where services are very uneven. Some States insist that Forgotten Australians use a specific service provider; others offer choice. Limits on sessions vary, but there are many reports of people having to fund their own counselling in order to continue dealing with their trauma.[108]

3.108 The NSW government submission states that there are limited counselling services available for Forgotten Australians in that State, essentially restricted to financial assistance for access to a 'specialist service, presumably the ARC. There is no provision for access to counselling for the families of care leavers:

> The NSW Government continues to support children and young people in care and those who have left care. However…some targeting of service delivery is essential. This being the case, the NSW Government does not support the provision of specific support services to the families of care leavers as this may detract from the ability to provide support to…care leavers themselves.
>
> In NSW, while the majority of specialist services are targeted to care leavers aged between 15 and 25 years, financial assistance can also be made available to a person over 25 years to access a specialist service.[109]

3.109 Care leaver organisations advised that the NSW's ARC offers a limit of 12 sessions, or 21 hours of counselling, within a set funding ceiling,[110] in addition to phone counselling for one day a week. The AFA observed that many NSW care leavers are able to access more counselling through their former care providers, and that others simply source and pay for their own counsellors. It noted:

> The funded counselling generally just scrapes the surface of the issues Forgotten Australians face.[111]

3.110 In Queensland, the ARC, based at Lotus Place, provides an Australia-wide service for care leavers offering:

- face-to-face counselling;

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107 *Submission 21*, p. 11.

108 *Submission 10*, p. 15.

109 *Submission 24*, p. 8.

110 AFA, *Submission 10*, p. 15; ACWA, *Submission 28*, p. 5.

111 *Submission 10*, p. 15.

- brokered counselling through Relationships Australia branch offices Australia wide and approved private practitioners; and
- telephone counselling via a 1800 telephone number.[112]

3.111 Ms Susan Kelly, Counsellor, advised that people unable to access counselling because they were in care outside of Queensland had been able to receive it through the victims of crime program:

> In the past, when people who were institutionalised as children in other states have not been able to access funding for counselling, we have been able to put them through our victims of crime program in Relationships Australia, Queensland. We have worked with them that way. We have a victims of crime counsellor situated at the Aftercare Resource Centre at Lotus Place.[113]

3.112 In theory, there is no limit placed on the ARC's counselling services. However, in practice funding constraints limit the provision of the service:

> There is no time limit for accessing our service at South Brisbane. However, unfortunately, from when the money runs out until we get it renewed the following year, sometimes we have to put a cap on how many counselling sessions a client receives. That is unfortunate because research suggests that, particularly for people who have experienced trauma as children, it does need to be ongoing.[114]

3.113 In South Australia counselling services are provided through Post Care Services to people who were in care for a period of six months or more in:

- foster care;
- State institutional care;
- church-based institutional care;
- government approved, funded and/or licensed institutional care; and
- alternative care and were under a care and protection order or secure custody order.

3.114 The Department for Families and Communities (SA) advised that it provides funding to care leavers to assist with the cost of counselling, as well as to develop a pool of professional counsellors who are trained in the needs of care-leavers.[115]

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112 *Submission 15*, p. 6.

113 *Proof Committee Hansard*, 6 April 2009, p. 45.

114 Ms Rebecca Ketton, Manager, ARC, Relationships Australia, *Proof Committee Hansard*, 6 April 2009, p. 45.

115 *Submission 30*, p. 7.

3.115 Further, South Australian assists care leavers regardless of their location in Australia and specific to the care leaver's needs and requests. Counselling is supported for care leavers for a guarantee of up to 12 months at any time; and the provision of a free call 1800 number facilitates care leavers in regional areas accessing specialist support services.[116] The ACWA commented that South Australia is still to release details of funding for its counselling service, but that it is likely to be capped.[117]

3.116 South Australia has previously provided funding for the CMT, which offers specific support for former child migrants; and provides ongoing funding for Anglicare to provide some counselling services:

> The South Australian Government provided a grant of $30, 000 over three years from 2001 to the Child Migrant Trust for a specialised visiting social work service to Adelaide from their Melbourne Branch. No subsequent funding was requested after June 2004.
>
> The South Australian Government provides ongoing funding to Anglicare SA to provide a range of therapeutic services. The Government supported Anglicare SA in the establishment of counselling and group work interventions for former child migrants at the Loss and Grief Centre. The Centre offers services for people dealing with loss, education for students and practitioners working in the field, and opportunities for research.[118]

3.117 Mr Thwaites from the CMT advised the Committee that 'we certainly have made representations to state governments, South Australia included'.[119] Ms Petersen from Families SA subsequently gave a commitment to have discussions with the Trust relating to funding and the accessing of services.[120]

3.118 The Tasmanian government advised that it had 'shown its ongoing commitment to supporting care leavers by providing an increased level of recurrent funding to the CREATE foundation'. However, the Committee notes that this is an advocacy body which does not provide individual advocacy or support for individuals. Beyond this, the Tasmanian government did not support the creation of specialised services for Forgotten Australians, taking the view that this 'would run the risk of care leavers facing further discrimination'; and that existing services were sufficient.[121]

3.119 Counselling services in Victoria are provided through VANISH, which uses contracted counsellors with particular skills or experience in dealing with Forgotten Australians. Care leavers are allowed $2000 of counselling per year, which may be extended on the basis of individual circumstances, and subject to the limit on the total

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116 *Submission 30*, p. 8.

117 *Submission 28*, p. 5.

118 *Submission 30*, p. 5.

119 *Committee Hansard* 8 April 2009, p.17.

120 *Committee Hansard* 8 April 2009, p.39.

121 *Submission 7*, pp 2-3.

funding available. Victorian residents who received care in another State are referred to services in that State, where available. VANISH will arrange and fund counselling for people who received care in Victoria that live outside the State.[122]

3.120 As noted above, in Western Australian CBERS Consultancy provides counselling services to ex-residents of Christian Brothers institutions. The AFA advised that beyond this there are 'minimal' opportunities for access to specialist counselling for care leavers in that State. While some church groups and not-for-profit groups attempted to provide some services on no funding, the only option for most care leavers is to access counselling offered by the Department for Child Protection (DCP):

> DCP…indicated that it would provide counselling for ex-wards. The response from ex-wards, by and large, is that they do not want to go to see a psychologist in the department which they fled from. And they can go to private psychiatrists or, under the current Medicare arrangements, private psychologists, who can now cover their costs for a certain number of visits. But, by and large, the forgotten Australians that we know do not have anywhere to go apart from CBERS.[123]

3.121 However, DCP submitted that in addition to the counselling provided through departmental psychologists and social workers or, in exceptional circumstances, external counsellors, there was specific provision for former child migrants:

> The Western Australian Department for Child Protection has funded the Child Migrants Trust since 1999 including for the provision of counselling services and therapeutic group work. The Minister for Child Protection has recently approved recurrent funding of $77,425 per annum to 31 December 2011.[124]

3.122 Care leavers pursuing claims through Redress WA could also receive counselling administered by the Department for Communities and provided by a network of contracted and non-contracted service providers across Western Australia.[125]

3.123 The Committee heard that churches and non-State organisations continue to offer disparate and uneven levels of counselling services:

> Religious organisations and other past providers also vary considerably in the mount of counselling they provide. In WA, for example, ex-residents of Christian Brothers, Sisters of Nazareth and Sisters of Mercy institutions are

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122 *Submission 10*, p. 15.

123 Professor Maria Harries, Associate Member, AFA, *Proof Committee Hansard*, 31 March 2009, p. 38.

124 *Submission 11*, p. 7.

125 *Submission 11*, p. 7.

> eligible for long-term counselling free of charge at CBERS Consultancy. Support for survivors of other institutions is not known.[126]

3.124 The Committee notes that, as part of its response to the *Forgotten Australians* report the Commonwealth government provided one-off funding of $100 000 to CLAN for 'professional counselling services to assist care leavers dealing with personal or family trauma'.[127] CLAN does not currently directly provide any counselling services.

3.125 ACWA called for the Commonwealth government to manage, or at the very least oversee, the provision of counselling to care leavers in order to address the issues of limited funds and inconsistent provision of counselling services across the States.[128]

Forgotten Australians Recommendation 25

That the Commonwealth and State Governments in providing funding for health care and in the development of health prevention programs, especially mental health, depression, suicide prevention and drug and alcohol prevention programs, recognise and cater for the health needs and requirements of care leavers.

Government response

The Australian Government, through the Department of Health and Ageing, funds a range of health care, health promotion and support programs, which are accessible to all Australians. While not targeted at care leavers, these programs are accessible to this group. These include the National Suicide Prevention Strategy, National Mental Health Strategy *and the* Better Outcomes in Mental Health Care Initiative.

Implementation

3.126 *Forgotten Australians* found that care leavers were prone to serious physical and mental health issues arising from childhood abuse and neglect, and in many cases the subsequent outcomes of such treatment affecting life prospects in terms of education, employment and socioeconomic status. While the report recognised that Australia offers a range of programs in the areas of mental health and aged care, and to a significant degree pursues whole-of-government and integrated strategies, it concluded that the particular and urgent physical and mental health issues of Forgotten Australians warranted their specific recognition in the funding and development of health, mental health and aged care programs.[129]

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126 AFA, *Submission 10*, p. 15.

127 FaHCSIA, *Submission 4*, p. 1.

128 *Submission 28*, p. 5.

129 *Forgotten Australians*, pp 312-319.

3.127 FaHCSIA advised that the Commonwealth government had provided AFA with a $20 000 grant to greatly extend the publication of its booklet for service providers, *Forgotten Australians: supporting survivors of childhood institutional care in Australia*.

3.128 Commenting on the Commonwealth response, the AFA observed:

> The Australian Government's attitude, as well as that of States and Territories, is that Forgotten Australians can access health care and other programs which are available to all Australians. This attitude completely ignores the multiplicity of issues confronting Forgotten Australians and their need for holistic, targeted and understanding assessment and referral for all their issues.[130]

3.129 The AFA felt Forgotten Australians required holistic case management as well as 'multiple entry points' to a range of services in order to overcome the many barriers they faced in terms of economic and social participation.[131] In particular, it called for care leavers to be recognised as a specific group and given access to health services through a specific health care card for care leavers:

> Governments should give Forgotten Australians priority access to services similar to that provided…[by the] Gold Card [given to veterans].[132]

3.130 Mr Ted Mullighan QC, who conducted the South Australian Inquiry into Children in State Care, agreed with this approach:

> I mentioned…[earlier] the transportability of benefits. I think that is important. We have two organisations that have done a fantastic job for people who have suffered in the past. One is the Veterans' Affairs organisation of government, and the other is Legacy. Legacy has been a fantastic model for providing sympathetic assistance to children who are in need…I would like to see those models applied to children who have been abused when in state care.[133]

3.131 The Forde Foundation Board of Advice submission noted that a gold card model for care leavers was especially appropriate, given the ageing of the population:

> We believe that, if that could be looked at on a national basis, it would be a long-term and significant assistance to all former residents, who need help to get on with their lives…[The] health needs of former residents will require increased attention as the client population ages and as their health interventions become more complex and costly.[134]

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130 *Submission 10*, p. 16.

131 *Submission 10*, p. 17.

132 *Submission 10*, p. 2.

133 *Proof Committee Hansard*, 8 April 2009, p. 33.

134 Mr Terry Sullivan, former chair, *Submission 13*, pp 2, 4.

3.132 In general, the AFA felt that such an approach could have additional benefits in terms of contributing to the identification of Forgotten Australians as a group:

> …whether it is a gold card or a health care card…there is another potential for this card…[Forgotten Australians are] a very fragmented, fractured community of people…[and such] a card provides an opportunity for a focal point for helping people to identify themselves as a group that we can then get access to…
>
> We do not know where the forgotten Australians are, but if there were a carrot like this, it may well help us to identify a group of people who want to be identified.[135]

3.133 Mr Errol Evans, Deputy Chair, Forde Foundation Board of Advice, felt that, in addition to practical benefits, a health card for care leavers would also serve as a significant acknowledgement of the experiences of Forgotten Australians:

> Such a response would recognise harm suffered through childhood neglect, abuse and disadvantage and address existing and ongoing health issues which have childhood health determinants.[136]

3.134 Mr Laurie Humphreys, WA Representative, Alliance for Forgotten Australians, suggested that a health card for Forgotten Australians could be administered through Centrelink.[137]

3.135 The State governments that provided direct responses to this issue either explicitly or implicitly rejected the recommendation that care leavers' needs be specifically recognised in the funding and design of health care and prevention programs. NSW submitted:

> The NSW Government funds a range of mental health and drug and alcohol health promotion, prevention and early intervention initiatives. These services are provided based on evidence of need and effectiveness for different age and risk groups and, where appropriate, covering infants, families, children, adolescents and young people. An increase in community awareness regarding service access and what these services offer may have broader positive impact than the development of services targeting a specific and narrow target group.[138]

3.136 The Tasmanian government indicated that, while it was committed to providing ongoing support to care leavers, it did not support explicit recognition of care leavers as a sub-group across a range of policy areas, including health:

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135 *Proof Committee Hansard*, 31 March 2009, p. 39.

136 *Proof Committee Hansard*, 6 April 2009, p. 2.

137 *Proof Committee Hansard*, 31 March 2009, p. 38.

138 *Submission 24*, p. 9.

> The number of care leavers in Australia does not warrant the creation of specialised services and to create a sub-group in these circumstances would run the risk of care leavers facing further discrimination.
>
> Services offered to care leavers need to be responsive, non-discriminatory and prioritised in terms of those highest in need, [and] it is felt that in Tasmania appropriate and effective support can be provided to care leavers from within existing services.[139]

3.137 The Western Australian government advised that its Department of Health 'funds a range of health care, health promotion and support programs that are accessible to all Western Australians.[140]

Forgotten Australians Recommendation 26

That the Department of Health and Ageing fund a pilot program under the Aged Care Innovative Pool to test innovative models of aged care services focusing on the specific needs of care leavers.

Government response

The Australian Government, through the Department of Health and Ageing, acknowledges the potential scope to develop a pilot proposal under the Aged Care Innovative Pool that would aim to test innovative models of aged care services for older people with specific needs, such as care leavers, whose care needs are not adequately met through existing aged care services. Consistent with Program Guidelines that specify the arrangements for developing innovative pool pilot proposals, stakeholder agencies can develop an outline of a proposed model and project parameters and make contact with the Department. More information about the Innovative Pool, including program guidelines, is available from the Department of Health and Ageing's website.

Forgotten Australians Recommendation 27

That the Home and Community Care program recognise the particular needs of care leavers; and that information about the program be widely disseminated to care leaver support and advocacy groups in all States.

Government response

This is a matter for state and territory governments. The Australian Government, through the Department of Health and Ageing, provides funding for the Home and Community Care (HACC) program, which is accessible to all Australians. The dissemination of information about state and regional specific programs funded under the HACC program is a state and territory government responsibility.

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139 *Submission 7*, pp 2-3.

140 *Submission 11*, p. 11.

Implementation

3.138 The Aged Care Innovative Pool (ACIP) is a program designed to trial new approaches to aged care for specific population groups.

3.139 The *Forgotten Australians* report noted that care leavers were an ageing group that would require a model of aged care that was sensitive to the particular issues of those who suffered abuse and neglect as children in institutions. Many of these people were suspicious and fearful of residential style aged care, due to its institutional nature, and could be re-traumatised by such settings.[141] Miss Harrison explained:

> We believe very strongly that forgotten Australians are going to have a lot of difficulty with the current aged-care model in this country. It is a model that is largely institutionally based…[Many forgotten Australians] will find themselves in institutions, and some of them say they would rather be shot first. This is quite understandable…[142]

3.140 The AFA stressed that the provision of appropriate aged care services to Forgotten Australians, as well as the education of service providers, was a 'growing problem' that needed to be urgently addressed.[143]

3.141 Ms Walsh commented that the Commonwealth response to the Committee's recommendation had merely affirmed the report's finding, and there remained the need for research into models of aged care for care leavers under ACIP.

3.142 The AFA submitted:

> To the best of our knowledge, no progress was made on the Australian Government's expressed willingness to test innovative models of aged care service for this group under the Aged Care Innovative Pool. No agency appears to have taken up this suggestion.[144]

3.143 FaHCSIA advised that the department 'is not aware of further action' beyond the Commonwealth's acknowledgment of the potential for 'agencies' to develop proposals relevant to care leavers under the ACIP.[145]

Home and Community Care program

3.144 The Home and Community Care (HACC) Program provides a range of basic support services to frail older people and people with disabilities who are experiencing

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141 *Forgotten Australians,* pp 316-317.

142 *Proof Committee Hansard,* 30 March 2009, p. 68.

143 *Submission 10*, p. 17.

144 *Submission 10*, p. 17.

145 *Submission 4*, p. 16.

difficulties in managing daily tasks but who wish to continue living at home. It also supports their carers and families.[146]

3.145 FaHCSIA advised that the department 'is not aware of further action' on the recommendation that the Home and Community Care program (HACC) recognise the particular needs of care leavers.

3.146 Miss Harrison advised that, although HACC and 'other in-home services' were improving, there was still a 'heavy reliance on family or relatives to care for aged people at home. As many aged care leavers did not have partners and children, HACC would not necessarily allow them to avoid being placed in institutional care.[147]

3.147 The NSW submission indicated that care leavers' needs were not explicitly recognised in the HACC program in that State. It noted that ' further research may be required to determine what particular needs care leavers accessing the HACC program would require before this recommendation could be progressed'.[148]

3.148 South Australia advised that 'HACC services are targeted to people with special needs' but did not indicate that care leavers' particular needs were recognised.[149]

3.149 Western Australia advised that for the HACC program in that State:

> Consideration of applicants' living and financial arrangements, mental and general well being are taken into account when prioritising services. Generally, in most cases it would not be known that an applicant for services is a care leaver.[150]

3.150 The Committee received no evidence that the HACC programs in Queensland, Tasmania and Victoria had taken steps to explicitly recognise the needs of care leavers. None of the HACC websites in these States carries information specific to care leavers. As with health, the Tasmanian government indicated that it did not support explicit recognition of care leavers as a sub-group across a range of policy areas, including aged care and social welfare services.[151]

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146 Department of Human Services (Vic) website, 'HACC Program brochure', http://www.health.vic.gov.au/hacc/hacc_victoria/brochure.htm, accessed 6 June 2009.

147 *Proof Committee Hansard*, 30 March 2009, p. 68.

148 *Submission 24*, pp 9-10.

149 *Submission 30*, p. 9.

150 Department for Child Protection (WA), *Submission 11*, pp 11-12.

151 *Submission 7*, pp 2-3.

Forgotten Australians Recommendation 28

That the Supported Accommodation Assistance Program recognise the particular needs of care leavers; and that:

- **data on the usage of the Program by care leavers be collected; and**
- **information about the Program be widely disseminated to care leaver support and advocacy groups in all States.**

Government response

The Government supports this recommendation in principle. Data collection on the use of the Supported Accommodation Assistance Program (SAAP) by care leavers is currently being investigated by the SAAP program's Information Sub Committee.

Information on SAAP services may be of interest to care leaver support and advocacy groups, and such information will be made available through the Department of Family and Community Services. However, SAAP is a crisis response program for people who are homeless or about to become homeless. Support groups should familiarise themselves with the range of programs available for this particular client group which aim to prevent them from falling into crisis.

Implementation

3.151 The purpose of the Supported Accommodation Assistance Program (SAAP) is to provide transitional supported accommodation and related support services to help homeless people achieve the maximum possible degree of self-reliance and independence.[152]

3.152 *Forgotten Australians* found that care leavers commonly experienced accessing affordable housing; and that, although this group made up a high proportion of users of the SAAP, there was no explicit recognition of care leavers' particular needs.

3.153 FaHCSIA provided an update to the original Commonwealth' response:

> This recommendation has been supported by the Government.
>
> The vulnerability of young people leaving care to homelessness is recognised and raised in the Green Paper on Homelessness, Which Way Home? A New Approach to Homelessness released in May 2008 to promote discussion about how to reduce homelessness.

152 Australian Institute of Health and Welfare (AIHW) website, 'Supported accommodation assistance program (SAAP)', http://www.aihw.gov.au/housing/sacs/saap/index.cfm, accessed 6 June 2009.

> A White Paper on homelessness will be released later this year and will be supported by a National Action Plan setting out reform directions for four years.[153]
>
> In June 2008, a feasibility study funded by the Community and Disability Services Ministers' Advisory Council, into 'Linking SAAP, Child Protection and Juvenile Justice Data Collections' was produced by the Australian Institute of Health and Welfare. The study concluded that it is feasible to begin linking the currently suitable and available data from the juvenile justice and SAAP national data collections with future stages including child protection data when these are available.
>
> The SAAP National Data Collection (NDC) is a continuous collection of information from July 1996 of the services provided to clients of SAAP and of the agencies funded to deliver those services. The NDC aims to continuously improve the quality and usefulness of data collection in order to provide a valuable information resource for service development, management and research into homelessness responses. The Australian Institute of Health and Welfare is currently contracted to carry out this task. Data on the usage of the Program by care leavers is not currently specifically collected by the SAAP National Data Collection Agency.
>
> From January 1 2009 the Supported Accommodation Assistance Program will be incorporated into the Housing Specific Purpose Payment (SPP).Care leaver support and advocacy groups should be informed about SAAP services, however early intervention and prevention of homelessness amongst young people leaving care would be preferable to a crisis response through SAAP or other homelessness services.

3.154 The NSW government extended 'in-principle' support to this recommendation. It noted that currently care leaver plans must be developed for care leavers leaving care. Care leavers are also given information about services available to them. However, in relation to collection and dissemination of information it notes:

> While every effort is made to ensure effective data around SAAP service usage, it should be noted that data collection is based primarily on self disclosure, if the person has not been referred to the SAAP service by the agency that previously provided care. Persons who have been in care may or may not wish to disclose past care history. Making disclosure a requirement of service usage may discourage some people from accessing SAAP services.[154]

3.155 The Queensland government submission did not directly address recommendation 28.

3.156 As noted above, Tasmania did not support the specific recognition of care leavers' needs across a range of social policy areas, including social welfare services.

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153 *Submission 4*, p. 16.

154 *Submission 24*, p. 10.

3.157 Victoria did not provide a submission to the inquiry. However, it appears that its SAAP program does not appear to contain any reference to specific needs of care leavers.

3.158 The government of Western Australia responded that it was working with the Commonwealth on development of a 'comprehensive long term national approach to tackling homelessness including early intervention, breaking the cycle of homelessness and connecting the service system':

> With the Australian Government's release of the Green Paper and the development of the new National Affordable Housing Agreement (NAHA) which will incorporate funding for the joint Commonwealth/State Supported Accommodation Assistance Program (SAAP), there is a changing landscape regarding future responses for homelessness. The importance of a broader service system to address homelessness and improve integration and coordination with mainstream services is also recognised.[155]

3.159 In relation to collection and dissemination Western Australia concurred with the view of NSW regarding self-disclosure and the potentially negative effects of compulsory disclosure on participation in the SAAP. Further:

> The issue of data collection on the usage of SAAP services by care leavers was considered by the SAAP Information Steering Committee. It did not recommend making any changes to the national data collection as there would be some difficulty in formulating appropriate questions and, potentially, some difficulty in asking people about their history in State care.[156]

Education

Forgotten Australians Recommendation 29

That the Commonwealth and State Governments widely publicise the availability of adult literacy and numeracy services and associated adult education courses to care leavers and care leaver support groups.

Government response

The Australian Government supports this recommendation. While funding of Adult and Community Education (ACE) provision is a State and Territory Government responsibility, from 1 July 2005 the Australian Government (through the Department of Education, Science and Training) will provide $1.105 million to Adult Learning Australia (ALA) to undertake activities associated with adult learning. Part of this funding ($730,000) supports the promotion of adult learning, research and other

155 *Submission 11*, p. 12.

156 *Submission 11*, p. 12.

activities. An additional $375,000 is provided to ALA to distribute to the States and Territories for activities associated with Adult Learners' Week.

The Commonwealth Department of Education, Science and Training liaises with State Training Authorities and with peak bodies, such as the Australian Council for Adult Literacy (ACAL) and ALA, and will seek their support to further publicise the availability of adult literacy and numeracy courses and associated education courses to care leavers and care leaver support groups. The Department of Education, Science and Training also funds the Reading Writing Hotline which directs callers to their nearest literacy training provider and will ask ALA to further publicise it.

State and Territory Governments also provide general education courses, which largely consist of literacy and numeracy training. The two Australian Government programmes which focus on literacy and numeracy, the Language, Literacy and Numeracy Programme (LLNP) and the Workplace English Language and Literacy Programme (WELL), target quite specific groups – jobseekers and those in employment respectively – and are not programmes that care givers or care agencies can refer people to. These two programmes are, however, widely publicised through several different methods and are well known throughout the adult and vocational education fields.

Forgotten Australians Recommendation 30

That State Governments investigate options for alternative entry pathways to higher education courses for ex-residents of institutions and their children.

Government response

This is a matter for state and territory governments to consider.

Implementation

3.160 *Forgotten Australians* found that many care leavers had left institutional care with 'a serious lack of literacy and numeracy skills'.[157]

3.161 FaHCSIA advised that it was 'not aware of further action' on the implementation of this recommendation.

3.162 The AFA criticised the Commonwealth government's response on the grounds that it 'failed to acknowledge the issues of adult literacy facing adult speakers of English who cannot read or write their own language'; and that the majority of adult literacy programs are targeted at migrants whose first language is not English. The AFA advised that it had raised the issue of the need for more courses targeting native

157 *Forgotten Australians*, pp 320-321.

speakers of English with the Department of Education, Employment and Workplace Relations but was 'not aware that the situation has improved significantly'.[158]

3.163 The NSW government responded that there is 'a range of adult education courses are provided in NSW, and these are widely publicised'.[159]

3.164 The Queensland government did not directly respond to this recommendation.

3.165 South Australia advised:

> Families SA, Post Care Services assist and promote care leavers to access adult literacy and numeracy services in their local areas and through adult education provided by TAFE SA by advocating for fee waivers from the educational organisations, or accessing funding from the Wyatt Benevolent Institution Inc or on occasion may fund or partly fund some tertiary courses. The Rapid Response TAFE fee waiver for young people up to 25 years is widely publicised in University and TAFE guides.[160]

3.166 While it did not respond directly to this recommendation, the Tasmanian government indicated that it did not support explicit recognition of care leavers as a sub-group across a range of policy areas, including social welfare services.[161]

3.167 Victoria did not provide a submission to the inquiry. The Committee is not aware that the State makes any provision for adult literacy or alternative entry pathways to education for care leavers.

3.168 The Western Australian government advised that a range of adult education courses, including literacy and numeracy are available in Western Australia and are publicised on the internet and in print media.[162]

Alternative entry pathways to higher education

3.169 The AFA submitted that there 'there has been no apparent response from States and Territories to recommendation 30'.[163]

3.170 The NSW government submitted that 'pathways to and assistance for higher education are primarily a matter for institutions and the Commonwealth Government'. Further, there was a need for research to determine whether there is 'any clear indication that existing pathways to education are inadequate or whether care leavers

158 *Submission 10*, p. 17.

159 *Submission 24*, p. 10.

160 *Submission 30*, p. 9.

161 *Submission 7*, pp 2-3.

162 *Submission 11*, p. 12.

163 *Submission 10*, p. 18.

have different access needs to other disadvantaged groups'. In the absence of such information NSW did not support the recommendation.[164]

3.171 The Queensland government did not respond directly to this recommendation.

3.172 South Australia advised:

> The CREATE Report Card 2008: Transitioning from Care, authored by Dr Joseph McDowall identified the South Australian Government's Rapid Response: Whole of Government Services initiative as "outstanding" in its commitment to improving educational opportunities for care leavers.[165]

3.173 However, the Committee notes that most of the educational initiatives for care leavers offered in South Australia are restricted to care leavers who 'commence studies prior to their 26th birthday' and, as such would exclude the majority of not all of the Forgotten Australians. For care leavers not eligible for such assistance:

> …TAFE SA and/or Post Care Services may assist care leavers to make application for educational support through the Dame Roma Mitchell Trust Fund or the Wyatt Benevolent Institution Inc. The South Australian Government and South Australian Council of Social Service initiated the Dame Roma Mitchell Trust in 2003 to provide funds administered by the Public Trustee to make grants available to children and young people who are, or have been, under Guardianship of the Minister. The Wyatt Benevolent Institution located in Adelaide also provides financial assistance and education grants on referral from a health, education or welfare professional.[166]

3.174 The Tasmanian government indicated that it did not support explicit recognition of care leavers as a sub-group across a range of policy areas, arguing that the number of care leavers in Australia did not warrant the creation of specialised services; and that such an approach carried the risk of care leavers facing further discrimination.[167]

3.175 The Western Australian government did not support the recommendation on similar grounds:

> Western Australia considers that existing entry pathways to higher education courses take into account a range of circumstances of applicants…Not all ex-residents would necessarily wish to be identified as such.
>
> Western Australia considers that existing entry pathways to higher education courses take into account a range of circumstances of applicants,

164 *Submission 24*, p. 11.

165 *Submission 30*, p. 9.

166 *Submission 30*, p. 9.

167 *Submission 7*, pp 2-3.

> and does not support introducing an alternative pathway specifically for ex-residents of institutions and their children. Not all ex-residents would necessarily wish to be identified as such.[168]

Identification and access to records

3.176 Both *Lost Innocents* and *Forgotten Australians* made a number of recommendations going to the identification and preservation of records, as well as to the provision of appropriately supported access for care leavers to their personal records.

3.177 Given the similar experiences of former child migrants and other people who spent time in out-of-home care as children, issues concerning records were central to both inquiries. Many of the recommendations of *Forgotten Australians* in particular are equally relevant to former child migrants and indeed to all care leavers. The location, preservation and access to records are critical to people seeking to discover their own identities, their families, and to piece together the stories of their childhoods. Further, records can be important to the identification of perpetrators and the collection of evidence relevant to both the prosecution of crimes against care leavers and to base claims for compensation either civil claims or through redress schemes.

3.178 Throughout the course of this inquiry, the importance of access to records for care leavers was again emphasised by many submitters and witnesses:

> As adults, care leavers can struggle with a sense of identity but can find healing in being able to locate themselves in childhood photos and institutional records.[169]

3.179 Similarly, the Healing Way for Forgotten Australians noted:

> Healing that takes place when people connect to their records and then go further to find their families is profound.[170]

3.180 Mr Frank Golding described why he thought that access to personal records was so important. He gave as reasons: to bring about delayed justice, to repair personal damage and help with identity and to reconnect with family and outlined how these reasons interconnect to improve and sustain quality of life. Mr Golding provided his personal experience in searching for and accessing records over more than 15 years that involved lengthy delays, applications to five State government agencies, three Commonwealth agencies and four private agencies - in addition to public

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168 Department for Child Protection (WA), *Submission 11*, p. 13.

169 Ms Rebecca Ketton, Manager, ARC, Relationships Australia, *Proof Committee Hansard*, 6 April 2009, p.38.

170 *Submission 25*, p. 11.

sources and showed that considerable costs are involved and that agency fees vary and concessions are allowed inconsistently.[171]

3.181 The issue of the difficulties for care leavers in accessing their records, in addition to its emotional costs and benefits, was outlined in the Committee's previous reports. The submission of Ms Joan Fawcett to the present inquiry also provided a helpful and comprehensive account of the continuing administrative and emotional problems faced by those seeking access to records from State agencies and other organisations.[172]

3.182 Ms Angela Sdrinis advised the Committee that the issue of record-keeping and access to records 'has been and continues to be a real issue'.[173] Similarly, Mr Andrew Murray, the former federal senator who was instrumental in the establishment of the Committee's previous two inquiries, observed that despite some progress many of the problems in relation to care leaver records remain:

> Although freedom of information legislation and a greater willingness of some organisations to make records available have improved access, problems still include the destruction and fragmentation of records, poor record-keeping and privacy restrictions.[174]

Who should have responsibility for care leaver records?

3.183 Some submitters and witnesses questioned whether care leaver records should remain the responsibility of the agencies and organisations that provided/or provide care leaver services. It was suggested that the holding and preservation of records, and hence access regimes, should be a State or Commonwealth responsibility. Mr John Murray, Foundation Member, Positive Justice Centre, submitted:

> …it is essential that a scheme for [the collection and dissemination of records]…should follow best practice and be run…by existing government agencies that already provide archiving services across the country. This scheme, given its importance, could even be run nationally or under federal powers or at least be coordinated by federal guideline legislation.[175]

3.184 Mr Murray believed that existing agencies possessed the expertise in relation to record-keeping rules and legislation, and already had in place the appropriate processes and services, such as counselling, to support care leavers accessing their records.[176] In contrast, the Committee's recommendations on issues concerning

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171 *Submission* 16, Attachments, *Personal records and the stories they tell* and *Chasing the record – and your tail.*

172 *Submission 42*.

173 Private capacity, *Proof Committee Hansard*, 30 March 2009, p. 6.

174 *Proof Committee Hansard*, 31 March 2009, p. 21.

175 *Proof Committee Hansard*, 7 April 2009, p. 2.

176 *Proof Committee Hansard*, 7 April 2009, p. 2.

records—which were premised on the assumption that agencies responsible for institutions would, in the main, retain responsibility for care leaver records—would lead to duplication of services as well as:

> …fragmented service delivery by a myriad number of agencies with little, if no expertise in the management, archiving and cataloguing of, and provision of access to such documents.[177]

3.185 Origins Inc. called for all records pertaining to State wards, adoptees and the stolen generation to be housed in the National Archives for preservation as part of the nation's history.[178]

3.186 Other witnesses, while supportive of the need for States to set consistent guidelines for the treatment and provision of records, disagreed with proposals for centralised records collections and management While not commenting directly on Mr Murray's view, Mr Quinlan noted:

> …the notion of a single central repository is seldom if ever achieved and seldom if ever the best or most efficient path. It will always be the case that states will hold particular records, churches will hold particular records and other organisations will hold particular records. Ensuring that the data standards and the protocols are appropriate for the movement of information between those various sources is more likely to be a realistic pathway to ensuring that people get appropriate access to records.[179]

3.187 Mr Andrew McCallum, Chief Executive Officer, ACWA. supported this view, and observed that some non-government organisations provide levels of support not necessarily offered by government agencies:

> …it is a state responsibility. I think the state should set the guidelines. The organisations still need to hold the records…There are some very good services that would probably go if all records were put with the state in some particular way. There are some very good after-care and long-term services provided by some non-government providers which would probably go if it was all centralised. Setting minimum standards is a state government responsibility.[180]

3.188 Mr Bill Hoyles, Senior Manager, Youth Affairs and Aftercare, Barnardos, advised that in his experience people had difficulties obtaining information from the State rather than from organisations such as Barnardos, which did not have difficulty storing, accessing and retrieving files.[181]

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177 *Submission 5*, p. 5.

178 *Submission 2*, p. 15.

179 *Proof Committee Hansard*, 7 April 2009, p. 67.

180 *Proof Committee Hansard*, 7 April 2009, p. 28.

181 *Proof Committee Hansard*, 7 April 2009, p. 29.

Lost Innocents Recommendation 8

That the Commonwealth Government urge all State Governments to co-operate to establish a national index of child migrants.

Government response

The government supports this recommendation and will refer it to the Community Services Ministers Advisory Council for consideration by State and Territory governments.

Lost Innocents Recommendation 9

That the Commonwealth Government urge State and Territory Governments to publish directories of information to assist all former residents of children's institutions to access records similar to the directories published by the New South Wales and Queensland Governments.

Government response

The government supports this recommendation and will refer it to the Community Services Ministers Advisory Council for consideration by State and Territory governments who have not published such directories. The government notes that there are already several directories in existence:

- *Good British Stock: child and youth migration (Barry Coldrey, National Archives of Australia 1999), which describes records held by the National Archives of Australia about child migration and provides information about how to access them;*
- *Connecting Kin Guide to records: a guide to help people separated from their families search for their records, (NSW Department of Community Services, 1998); and*
- *Missing pieces: Information to assist former residents of children's institutions to access records, (Families, Youth and Community Care Queensland, 2001).*

Implementation

3.189 The submission of DIAC did not provide any update on the progress of the Commonwealth government undertaking to progress these recommendations through the Community Services Ministers Advisory Council (CDSMAC). However, it appears that they have not been raised in that forum. The Committee is not aware that there has been any steps toward a national index of child migrants.

3.190 The CMT, commenting generally on the development of child migrant databases, submitted that no State governments had responded to this issue.[182]

3.191 As noted in the original recommendation and the Commonwealth government response, both New South Wales and Queensland have put in place information directories for care leavers. The New South Wales directory, 'Connecting kin', was published in 1998. The Queensland directory has been in place since 2001:

> In 2001, the Queensland Government consulted with non-government organisations which formerly operated children's homes to develop an Information directory entitled *Missing Pieces*. This directory includes detailed information on the types and location of records held by the Departments of Child Safety and Communities and religious authorities and is available on the Department of Communities' website.[183]

3.192 South Australia advised that it had released a guide for care leavers in 2005:

> SA Link-Up's 'self help' guide was launched on 7 July 2005. The guide titled *Finding Your Own Way* is a comprehensive resource to assist people to access existing records of South Australian children's homes and institutions. The guide describes all the records of institutions that were located as at December 2004 although the amount and quality of records varies greatly with each institution and with each managing agency.[184]

3.193 Additionally, State Records of South Australia provide services through their archives website and through publications such as *Ancestors in archives, Aboriginal resource kit: an introduction to primary sources held by State Records* and *'A little flour and a few blankets': an administrative history of Aboriginal affairs in South Australia 1834-2000*.[185]

3.194 Tasmania provided a general response noting only that the Department of Health and Human Services continues 'to assist child migrants and their descendants who apply to have access to their files'.[186]

3.195 Western Australia advised that it publishes a number of directories of information to assist all former residents of children's institutions, out-of-home care and supported accommodation, and adoptees. These are:

- *Signposts: A Guide for Children and Young People in Care in Western Australia from 1920*: a publication to assist people who were placed in residential care as children, or who lived in supported accommodation as a young person, to find records and other documents;

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182 *Submission 23*, p. 3.

183 *Submission 15*, p. 4.

184 *Submission 30*, p. 4.

185 *Submission 30*, p. 5.

186 *Submission 7*, p. 2.

- *Looking West: A Guide to Aboriginal Records in Western Australia*: a publication which provides details on the location of records and contact details;
- *ROADS*: an index of locations and access to adoption records.[187]

3.196 The identification and location of records relating to out-of-home care was also being achieved through a number of indexes and databases, including:

- Family Information Research System. This database holds all the native welfare, and some community welfare, records plus 43 indexes from church groups and non-government agencies; and there is over nine million images stored in FIRS. It also holds the Adoption Information System, which is a register of inquiries received about Western Australian adoptions from 1896 to the present day;
- Former Child Migrant Referral Index. This index holds 2,941 names of former child migrants who came to WA from the United Kingdom and Malta from 1913 to 1968; and holds information relating to the sending and receiving agencies; and
- Children-in-Care Database. This database contains names, aliases, dates of birth and placement details. There are in excess of 106,000 entries on the database comprising approximately 58,000 names.[188]

3.197 In addition, CBERS Consultancy has established a referencing for former child migrants, known as PHIND, the Personal History Index for Former Child Migrants. The index details the location of records held in Australia for former child migrants resident in Catholic Homes between 1938 and 1965. PHIND has been sponsored and funded by the Catholic religious orders and agencies involved in child migration.[189]

3.198 Ms Humphreys observed generally that the Committee's previous inquiries had led to improved procedures and guidelines to enable former child migrants to locate family:

> It is certainly much improved on what it used to be. That is for sure. Both inquiries have made quite a substantial difference to the attitude about records. I think it is important for us to say that, because it has made a difference. There are procedures and protocols in place for the trust to work with all agencies that were involved in child migration.[190]

187 *Submission 11*, p. 3.

188 *Submission 11*, p. 8.

189 *Submission 10*, p. 11; and CBERS Consultancy website, 'PHIND', http://www.cbers.org/phind.html, accessed 9 June 2009.

190 *Proof Committee Hansard*, 8 April 2009, p. 19.

Forgotten Australians Recommendation 12

That government and non-government agencies holding records relating to care leavers, implement and fund, as a matter of priority, programs to find, identify and preserve records including photographs and other memorabilia.

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Implementation

3.199 The responses of the State governments to this recommendation indicated that few if any programs have been put in place to specifically identify *and* preserve care leaver records. However, there is a program dedicated to assisting members of the stolen generation in South Australia; and in other States there are programs of a more general scope that have apparently improved outcomes in terms of identifying and preserving records, which include records pertaining to care leavers.

3.200 The NSW government advised that it had in place a program for the preservation of the files of former State wards. However, a significant number of records had been destroyed in the past.[191] In relation to other records:

> The Department of Community Services does have some other types of surviving historical records. These records had been inaccessible for many years as they had not been indexed by State Records. In 2005, a program commenced to identify and index types of records which include some personal information about former wards, other former clients and the estimated 100 children's homes the Department formerly operated. To date, approximately 61,000 "new" client records have been indexed.[192]

3.201 Queensland advised that, in response to the Forde inquiry, Queensland had taken steps to identify, locate and preserve client files and departmental records relevant to the administration of church run children's homes and departmental facilities. This includes requirements that all Queensland government departments:

- meet the record keeping obligations prescribed in *Public Records Act 2002* and the *Financial Administration and Audit Act 1977*; and
- comply with record-keeping information standards.

3.202 Further, retention and disposal schedules apply to the former Department of Families, Youth and Community Care client files; these schedules are currently under review.[193] A large number of original client records relating to youth detention

191 *Submission 24*, p. 5.

192 *Submission 24*, p. 5.

193 *Submission 15*, p. 4.

institutions have been identified, catalogued and scanned electronically to provide easier access and to preserve these valuable documents.

3.203 South Australia advised:

> The Department for Families and Communities, in conjunction with State Records of South Australia, continues to undertake discovery and consignment listing of records relating to children in State care. State Records of South Australia and Link-up SA provide dedicated support services to Aboriginal care leavers and their families in the task of locating and viewing records. The Department for Families and Communities, Families SA Post Care Services provide support services to care leavers to assist them in the task of identifying, locating and viewing personal records.[194]

3.204 The Tasmanian government submission did not advise of any specific programs relating to identification and preservation of care leaver records.

3.205 In relation to Victoria, FaHCSIA advised that the Commonwealth had provided a grant of $550 000 to fund the 'Who am I' project. The FaHCSIA submission explains:

> …to acknowledge the ongoing need to help uncover lost and incomplete personal histories, the Government has provided an Australian Research Council grant to assist several Victorian based organisations undertake a study on children and adolescents who formerly lived in foster or institutional homes. This project is providing information to people who have been in care, offer a history and set of resources to people currently in care, and inform current organisations on best practice models.[195]

3.206 The Committee heard that the 'Who Am I? Making Records Meaningful' project is a complex project involving government, community sector organisations and the Centre for Excellence in Child and Family Welfare. The project is being undertaken by an interdisciplinary team of researchers, and its purpose is:

> …to investigate archiving and record-keeping practices to support current care leavers and forgotten Australians, or past care leavers, in the construction of their identity.[196]

3.207 The final outcome of the project is intended to be an online resource for care leavers, which would include digitised records and a wide array of information on such things as care institutions, relevant legal regimes and political and social context. Particular items of information—for example, a record indicating that a person was present in a given institution at a given time—are to be presented in a full historical context, which can be intuitively searched or negotiated.

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194 *Submission 30*, p. 4.

195 *Submission 4*, p. 4.

196 *Proof Committee Hansard*, 30 March 2009, p. 23.

3.208 The project is funded by the Australian Research Council, 12 community sector organisations, the centre for excellence, Victorian Aboriginal Child Care Agency, and the Victorian State government. Total funding amounts to $800 000 over three years. [197] Professor Cathy Humphries, Alfred Felton Chair of Child and Family Welfare, advised that the project would be activated online in stages over the course of its three-year development.[198] However, funding and administrative arrangements beyond the three-year development phase of the project was uncertain.

3.209 Ms Clare noted that the scheme—particularly if it were to be pursued at a national level—could significantly address the Committee's previous recommendations concerning the identification preservation of, as well as access to, care leaver records.[199]

3.210 Western Australia advised that it had put in place a specific program for records relating to Indigenous people:

> In response to Recommendation 23 of…[the *Bringing them home* report] the Western Australian Government established a Records Taskforce to identify, locate and preserve government and non-government records relating to Aboriginal people in Western Australia.

Forgotten Australians Recommendation 13

That all government and non-government agencies immediately cease the practice of destroying records relating to those who have been in care.

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Implementation

3.211 *Forgotten Australians* found that there had been considerable destruction of care leaver records in both government and non-government agencies, due to inadequate retention policies as well as failures to properly store and preserve records.[200]

3.212 The AFA believed there were still disparate practices across the States and non-government organisations in terms of records preservation, and called for national legislation to prevent any further destruction of records:[201]

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197 *Proof Committee Hansard,* 30 March 2009, p. 24.

198 *Proof Committee Hansard,* 30 March 2009, p. 27.

199 *Proof Committee Hansard,* 30 March 2009, p. 35.

200 *Forgotten Australians*, pp 262-267.

201 *Submission 10,* p. 13.

> AFA believes that only national legislation will stop the practice of destroying records, as some organisations would rather destroy records than spend the time and money logging them and creating access to them.

AFA members had reported that churches in particular remained slow to respond to requests for information.[202]

3.213 Ms Mallet advised that records had not been destroyed in NSW since the passing of the *Young Persons (Care and Protection) Act 1988*. This Act had also been amended to allow former wards of the State to be given original materials contained in files, such as birth certificates, school reports and medical reports.[203] The NSW submission advised:

> The NSW State Archive has a program for the preservation of the files of former State wards. Regrettably, in accordance with past record-keeping practices, the Department routinely destroyed records throughout much of the twentieth century, with the concurrence of State Records NSW. The Department therefore has no surviving wardship records for approximately 16% of the mature-age care-leavers who apply to access departmental records about themselves.[204]

3.214 Queensland advised:

> All Queensland Government departments are required to meet the record keeping obligations prescribed in *Public Records Act 2002* and the *Financial Administration and Audit Act 1977* and comply with Information Standard 40 (Recordkeeping). Retention end Disposal Schedules are in place for the former Department of Families, Youth and Community Care client files. These Schedules are currently under review.[205]

3.215 South Australia, which had destroyed records in the past in accordance with then government policies and practice, acknowledged that the State had an ongoing duty of care to care leavers that extended to the proper management and preservation of records. Accordingly, care leaver records were now permanently preserved:

> Client files and sub-files relating to children in care must be retained for at least 105 years under the SA *State Records Act 1997*. Care leaver records, or historical records relating to out-of-home and institutional care are held permanently [at State records of South Australia].[206]

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202 *Submission 10,* p. 11.

203 *Proof Committee Hansard,* 7 April 2009, p. 79.

204 *Submission 24,* p. 5.

205 *Submission 15*, p. 4.

206 *Submission 30,* p. 4.

3.216 Tasmania advised that no departmental files relating to children in the care of the State of Tasmania have been destroyed.[207]

3.217 The Western Australian Department for Child Protection submitted:

> [The department]…has not knowingly destroyed any client records since the 1980's. Current policy does not allow destruction of original records i.e. microfilm and paper records even though they have been imaged electronically. Therefore it is possible that three types of media exist of the same record.[208]

Forgotten Australians Recommendation 14

That all State Governments and non-government agencies, which have not already done so:

- **provide dedicated services and officers to assist care leavers in locating and accessing records, both government and non-government; and**
- **compile directories to assist in the locating and accessing of records relating to care leavers and the institutions into which they had been placed.**

Government response

This is a matter for state and territory governments, churches and agencies to consider.

Forgotten Australians Recommendation 15

That a dedicated information and search service be established in each State and Territory to:

- **develop a complete register of all records held by government and non-government agencies;**
- **provide assistance to care leavers to locate and access records;**
- **provide advocacy and mediation services to care leavers accessing records; and**
- **ensure that all agencies holding records identify, preserve and make available all surviving records relating to care leavers and the institutions that housed them.**

207 *Submission 7*, p. 2.

208 *Submission 11*, p. 6.

Government response

This is a matter for state and territory governments to consider.

Forgotten Australians Recommendation 16

That all government and non-government agencies agree on access guidelines for the records of all care leavers and that the guidelines incorporate the following:

- **the right of every care leaver, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same;**
- **the right of every care leaver to undertake records searches, to be provided with records and the copying of records free of charge;**
- **the commitment to a maximum time period, agreed by the agencies, for the processing of applications for viewing records; and**
- **the commitment to the flexible and compassionate interpretation of privacy legislation to allow a care leaver to identify their family and background.**

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Forgotten Australians Recommendation 17

That all agencies, both government and non-government, which provide access to records for care leavers, ensure adequate support and counselling services are provided at the time of viewing records, and if required, subsequent to the viewing of records; and that funding for independent counselling services be provided for those care leavers who do not wish to access services provided by a former care agency.

Government response

The Australian Government notes that counselling services are already funded and widely available, including to care leavers, and would be appropriately used in these circumstances. The Australian Government has provided one-off funding to the Care Leavers of Australia Network (CLAN) of $100,000 for counselling support. In the longer term, this is the responsibility of state and territory governments, churches and agencies.

Implementation

3.218 *Forgotten Australians r*ecommendations 14, 15 and 16 went to the issue of providing dedicated and comprehensive directories and services, as well as uniform

guidelines, to assist care leavers to locate and access records. Recommendation 17 sought to ensure that governments and non-government agencies made adequate provision for support and counselling services for care leavers when accessing and viewing records. Aspects of recommendations 14 through 17 are addressed above, particularly in the discussion of recommendation 9, in relation to directories, and recommendation 23, in relation to counselling.

3.219 The issues of access to records and related support and counselling services are also relevant to the design of redress schemes in those States that have so far introduced such schemes. Redress schemes are considered above under the discussion of *Forgotten Australians* recommendation 6.

3.220 The AFA submitted that that there are still disparate practices across State and non-government organisations in relation to access to records:

> …there are still very different practices, in terms of preservation of and access to records, across all States and Territories and among past providers as well. AFA members report that some churches are slow to respond to requests for information and appear to conceal incriminating evidence; or they may tell the inquirer that records have been destroyed.[209]

3.221 The AFA called for greater involvement by the Commonwealth government, on the grounds that only such an 'intervention' could achieve 'greater national consistency' of access to records, and ensure an appropriate investment of time and skill in making records available.[210]

3.222 However, Ms Annette Michaux, General Manager, Social Policy and Research, Benevolent Society, noted that guidelines should not be overly prescriptive, to ensure that specific protocols and processes could remain sensitive to the circumstance of both organisations and individuals:

> This is a really difficult area. There is the idea of having some guiding principles, federal or state based, but it is important to have a kind of flexible, grounded approach to each individual who is approaching the service so that they can navigate through the reveal of the file sensitively with that person. That is very hard to put into policies and processes, but I think there are ways to use benchmarks and guides and then have a very flexible grounded approach.[211]

New South Wales

3.223 There is no dedicated information and search service for care leavers in NSW. The NSW government submission advised that a legislative framework exists to ensure care leavers are given supported access to records by State agencies. Former

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209 *Submission 10*, p. 11.

210 *Submission 19*, pp 3,13.

211 *Proof Committee Hansard*, 7 April 2009, p. 31.

wards of the State do not need to apply for access to their records under the NSW *Freedom of Information Act 1989*, with access granted in accordance with the provisions of the NSW *Children and Young Persons (Care and Protection) Act 1998* and the NSW *Privacy and Personal Information Protection Act 1998.*[212] This legislation ensures enables:

> …all persons who were in care to have access to any personal information held by the designated agency that provided care or the carer. The agency must also provide appropriate support to the person accessing the information.[213]

3.224 Barnardos and CLAN also referred to NSW's 'publication *Connecting kin: a guide to help people separated from their families*, a guide to help people separated from their families search for their records. CLAN noted that, while there was considerable variation from State to State in assistance with processes for access to records:

> NSW led the way with their 1998 guide, Connecting Kin, and other states now also have a guide to records, but others do not.[214]

3.225 However, the AFA described the processes to be followed by care leavers wishing to access records in NSW as lacking any specific protocols or support for care leavers:

> The usual process in NSW is that Forgotten Australians go to their local DOCS office and request their state ward file. There is no extra training for staff to help them understand whom they are dealing with when Forgotten Australians turn up with this request. People who are out of state go through FoI.[215]

3.226 NSW contended that it did in fact provide 'significant levels of support and assistance to care leavers accessing records' held by the Department of Community Services:

> …arrangements are already in place to assist former wards to access departmental records about their time in care. This access is arranged by experienced casework staff at local DoCS Community Services Centres. Access for former wards who live outside NSW is arranged by DoCS' Freedom of Information Unit. A dedicated Records Officer is responsible for locating relevant departmental records about former wards.[216]

3.227 In relation to former child migrants, the CMT submission observed that NSW had developed a child migrant database 'similar to that already in existence in Western

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212 *Submission 24*, p. 7.

213 *Submission 24*, p. 6.

214 *Submission 21*, p. 6; see also Barnardos, *Submission 6.*

215 *Submission 10*, p. 12.

216 *Submission 24*, p. 6.

Australia'. However, by limiting access to this resource to government agencies, it was of only limited usefulness for former child migrants.[217]

3.228 As noted in the discussion of the response to recommendation 12, NSW has implemented programs which, while not specifically targeted at care leaver records, have improved to some extent their identification and preservation.[218]

3.229 There did not appear to be any provision for discrete or separately funded counselling services for care leavers accessing or viewing their personal records in NSW. The issue of counselling services more generally, which could be accessed for the purposes of such support, was considered in the discussion on delivery of services above, particularly in relation to recommendation 23 of *Forgotten Australians.*

Queensland

3.230 There is no dedicated information and search service for care leavers in Queensland. Access to care leaver records is governed by the freedom of information (FoI) legislation and principles that apply to the public in general, and certain administrative processes:

> Under the provisions of the *Freedom of Information Act 1992*, members of the public have a legal right to apply for access to documents held by a government department and to amend documents which relate to their own personal affairs. There are no fees or charges to access or copy documents which relate to an applicants personal affairs. Charges apply for access to non-personal affairs documents. Information about relevant fees and charges is available from the Department of Communities' website.
>
> The Department of Communities offers former children in care access to personal information through the freedom of Information (FoI) process or administrative release access arrangements. During the processing of applications, departmental officers will link individuals to other agencies, which might hold relevant information and to support agencies as required. Applications may be transferred in full or in part to other agencies for processing with the knowledge and consent of the applicants.[219]

3.231 However, Aboriginal people and Torres Strait Islanders are able to access a dedicated service:

> In addition, the Community and Personal Histories unit with the department's Office of Aboriginal and Torres Strait Islander Partnership provides assistance to Aboriginal and Torres Strait Islander peoples to locate state government records about themselves and their communities.[220]

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217 *Submission 23*, p. 3.

218 *Submission 24*, p. 5.

219 *Submission 15*, pp 4-5.

220 *Submission 15*, p. 5.

3.232 Ms Ketton offered praise for the delivery of processes available to care leavers in Queensland:

> We note that accessing childhood care records in Queensland has mostly become a streamlined process for care leavers and that this service is provided in a most respectful and sensitive manner.[221]

3.233 There did not appear to be any provision for discrete or separately funded counselling services for care leavers accessing or viewing their personal records in Queensland. The issue of counselling services more generally, which could be accessed for the purposes of such support, was considered in the discussion on delivery of services above, particularly in relation to recommendation 23 of *Forgotten Australians.*

South Australia

3.234 There is no dedicated information and search service for care leavers in South Australia. South Australia disagreed there was a need for a dedicated information and search services in each State. On the grounds that the opportunities for assistance and guidance for care leavers in locating and accessing record were sufficient, it felt that recommendation 15 would not 'add value to the provision of services' in South Australia.[222]

3.235 Access to care leaver records in South Australia is governed by the State's FoI legislation:

> The South Australian Government recognises the personal, historical and legal value of client records and facilitates…access to these records through provision under the *Freedom of Information Act* 1991…[with requests processed] by an accredited Freedom of Information Officer.

3.236 South Australia advised that people accessing records are assisted by Post Care Services, which:

> …provides a flexible and compassionate interpretation of privacy principles and other legislation to enable care leavers to identify family background, but without releasing information that contains the details of other people…[and] supports care leavers or their family to find relatives and mediate re-connection where possible…[223]

3.237 FoI fees and charges are waived where requests relate to personal records.[224] Post Care Services also provides support and advocacy for access to records held by another State or non-government organisation.

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221 *Proof Committee Hansard*, 6 April 2009, p. 39.

222 *Submission 30*, p. 5.

223 *Submission 30*, p. 5.

224 *Submission 30*, p. 4.

3.238 Social worker support is provided to people accessing their records under FoI; and funding and referrals are provided for 'appropriate independent counselling services to support the viewing of records or following viewing'.[225] The counselling services provided by Post Care Services are also discussed above under the consideration of recommendation 21 of *Forgotten Australians*.

Tasmania

3.239 There is no dedicated information and search service for care leavers in Tasmania. However, the Tasmanian Minister for Human Services advised:

> My Department continues to support care leavers, (regardless of when they were in care) who contact the Department seeking information and/or access to their files.[226]

3.240 Ms Alison Jacob, Deputy Secretary, Human Services, Department of Health and Human Services (DHHS), explained that the department's After Care Support Program provided assistance to care leavers to access their records, support for viewing the file and referrals to counselling. Ms Una Hobday, Manager, Adoption and Permanency Services, DHHS, described the operation of that program:

> For…[older care leavers] we can search their records for them. We can try to find family members, if that is what they want. We can give them copies of their full records. We can talk them through the kinds of differences there were in communities at those times, which seems to be the thing we do most. We talk to them about what it was like in the sixties and seventies for families, so that we put their file into context…Then we offer them opportunities to go and get more thorough counselling, if needed, through a raft of psychologists or counsellors around the state.[227]

3.241 The Committee heard suggestions that applicants in Tasmania had been refused access to personal records. The AFA submitted:

> Waiting times to access records can be up to a year; in some cases, records are sealed for the life of the survivor in question. Tasmania is a case in point, where some Forgotten Australians have been told they can never access their files.[228]

3.242 However, Tasmanian government representatives were unaware of any recent or significant complaints in relation to refusals, either by government or private agencies, to provide access to records.[229] In terms of facilitating access to records from non-government organisations:

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225 *Submission 30,* pp 5-6.

226 *Submission 7*, p. 2.

227 *Proof Committee Hansard,* 8 April 2009, pp 72-73.

228 *Submission 10,* p. 12.

229 *Proof Committee Hansard,* 8 April 2009, p. 74.

> If we have a claimant under our current round that comes forward and wants to access information which might include a mix of state government welfare files and/or files from outside organisations, we will work with them to assist them in getting access to the forms, help them to fill out the forms, or even on occasion write to the organisation on their behalf. We do that on behalf of people that come to see us.[230]

Victoria

3.243 There is no dedicated information and search service for care leavers in Victoria. The AFA advised that care leavers seeking to access records in that State must work within the parameters of FoI and privacy legislation; and are confronted by a number of processes that offer varying degrees of assistance:

> In Victoria, Adoption Family Record Service (AFRS), who hold the state ward records, are reported as being reasonably approachable. However, many former wards still need to chase their files through several agencies that dealt with them as children. No advice is given to applicants by [the Department of Human Services] about what other sources of information about their families might be worth investigating…Support varies according to which agency people apply through. Working within the Privacy Act, AFRS try to give as much information as possible; however, many Forgotten Australians are not happy that they still cannot access family information, including information on siblings.[231]

3.244 Further, there were anecdotal accounts of serious delays in the provision of information in response to FoI requests, which in some cases were taking 'up to eight or nine months' instead of the prescribed time limit of 45 days.[232]

3.245 Mr Golding advised the Committee that there had been 'some improvement' by individual care providers in allowing access to records; however, there was 'still a long way to go'. In particular, a project to produce a comprehensive guide to out-of-home records, the 'Who Am I?' project, remained unfinished, and was not expected to be complete for another three years.[233]

Western Australia

3.246 There is no dedicated information and search service for all care leavers in Western Australia. However, a specialist service, the Family Information and Records Bureau (FIRB), is in place for Indigenous Australians. The FIRB was established in

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230 Ms Leica Wagner, Manager, Child Abuse Assessment Team, Department of Health and Human Services, *Proof Committee Hansard*, 8 April 2009, p. 75.

231 *Submission 10*, p. 12.

232 *Submission 10*, p. 12.

233 *Proof Committee Hansard*, 30 March 2009, p. 16. The 'Who Am I?' project is discussed above under *Forgotten Australians* recommendation 12.

response to the *Bringing Them Home* report in 1998. In terms of staffing and the scope of its work:

> FIRB employs six Aboriginal Information Officers who provide personal information and work with Linkup and Bringing Them Home Group, a System and Information Officer who manages the database and an Information Officer who provides information to non-Indigenous persons including former child migrants.[234]

3.247 Other care leavers seeking access to records must generally apply for records held by the Department for Child Protection (DCP) through existing administrative arrangements or FoI processes. Since 1985 the department has employed an information officer, who can assist people seeking information about themselves.[235] The department can also provide assistance with locating and accessing records through the FIRB and Adoptions Services.[236]

3.248 The DCP advised that it encourages care leavers seeking access to personal information held by the department to do so through informal processes. However, any release of information must comply with FoI Act principles and guidelines, and applicants could make applications under the act of dissatisfied with the informal processes. No fees or charges are payable for individuals seeking access to their personal information.

> The Department does not allow persons to view original information relating to themselves. Information is edited and copies provided, as there is often third party information entwined with a person's personal information.
>
> Information about a person's personal and family history is provided face-to-face unless otherwise requested by the individual, and support and counselling is available if required or requested.[237]

Non-government agencies

3.249 In relation to the identification, location and preservation of records by non-government agencies, as well as the provision of supported assistance for access to records by care leavers, the Committee heard that a number of non-government agencies, mainly church and religious organisations, had taken significant steps.

3.250 The Committee heard that MacKillop Family Services—established in 1997 by its three founding religious congregations: the Sisters of Mercy, the Sisters of St Joseph and the Christian Brothers—had developed a database listing the names of children who were resident in homes run by that organisation. This database was

234 *Submission 11*, p. 7.

235 *Submission 11*, p. 7.

236 *Submission 11*, p. 8.

237 *Submission 11*, p. 9.

established to help former residents and their families access information from their time in care, and contained approximately 150 000 names.[238]

3.251 The Benevolent Society advised that it had instituted record-keeping procedures and access protocols in direct response to the *Forgotten Australians* recommendations. The society conducted a search for historic records, which it reported was unfortunately inconclusive concerning the existence and possible destruction of pre-1970 records. Since then, the society had published a history of care, and confirmed records processes that appeared to be consistent with the recommendations of *Forgotten Australians*.[239]

3.252 Mr John Kennedy, Chairman of Council, Fairbridge Foundation, provided an example of how, as a smaller organisation of limited means, the Fairbridge Foundation ensured appropriate counselling services were available to people accessing records:

> In our situation…[because the Fairbridge Foundation is a] small group, we do not have the resources…[Therefore we] draw on the resources of the Child Migrants Trust, who do have the professional assistance. If we felt that there were things in a file about which the applicant really needed some counselling, we would refer the applicant to the Child Migrants Trust to get that help if they felt they needed it.[240]

3.253 Mr Quinlan advised that, in response to the Committee's recommendations, CSSA had been commissioned to undertake a national project to:

> …identify the extent, location and access arrangements for care-leaver records held by the church, its agencies and ministries, and the best models for the future support of care leavers by the Catholic Church.[241]

3.254 Mr Quinlan noted that a substantial level of consultation had already been undertaken with Catholic organisations and religious orders in possession of records and/or providing services to care leavers. Limited consultation with care leaver groups and individual care leavers had also been undertaken.[242]

3.255 While the final report of the project was not due until later in 2009, Mr Quinlan advised on the likely direction of its findings. First, there was a need to update the Church's directory of the location of records across Australia, *A piece of the story: national directory of records of Catholic organisations caring for children separated from families*. The directory was originally published in response to the *Bringing them home* report, which called on churches to identify all records relating to

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238 *Proof Committee Hansard,* 7 April 2009, pp 61-62; see also *Lost Innocents*, pp 256-257.

239 *Submission 6*, pp 6-7.

240 *Proof Committee Hansard,* 7 April 2009, p. 33.

241 *Proof Committee Hansard,* 7 April 2009, p. 60.

242 *Proof Committee Hansard,* 7 April 2009, p. 60.

Indigenous children; the project was eventually broadened to include all Catholic institutions:

> *A piece of the story* is a directory of the location of records across Australia, a description of the holdings and a description of how to access the records. The directory is acknowledged as an excellent resource for people who were in care and who are now searching for records. It is, however, in need of revision and updating...[243]

3.256 Second, there was still a need to develop a 'systematic policy and practice of records management development across the Catholic church and its various agencies and religious congregations' to provide appropriate services and support for care leavers. This was necessary because there were still divergent policies and procedures in place concerning the location and storage of records, as well as the provision of supported access and support.[244] While there was a need to ensure the input of care leavers and support groups, Mr Quinlan indicated that the design of services would be based on certain principles:

> Care leavers have clearly expressed a preference for services that are not laden with cumbersome application procedures to access records. Services to people who are in care need to be staffed by people who are highly skilled and experienced and professionally trained, with some kind of social work or similar qualification. There is a role for archivists and people with records management training…Organisations providing services to people who are in care need to be well resourced and workers need to be supported through supervision and training[245]

3.257 Due to fact of so many institutions making up the broader Catholic Church, it was likely that the model of records preservation, access and support would be a form of distributed network, in which a single or standardised point of entry to a database would provide access to multiple individual holdings. Common guidelines and standards would ensure appropriate access and support for care leavers.[246]

3.258 This model of record retention and access was effectively endorsed by Ms Janet Henegan, Manager, Post Adoption Resource Centre:

> The Benevolent Society has their own records, which are stored with us. When people access their files they have an opportunity to have a counselling session to understand what was happening historically. It is an option for them and there is support and further search information available to them. While I would like some things to be standardised I would be really concerned about records being held centrally...[247]

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243 *Proof Committee Hansard,* 7 April 2009, p. 61.

244 *Proof Committee Hansard,* 7 April 2009, p. 61.

245 *Proof Committee Hansard,* 7 April 2009, p. 62.

246 *Proof Committee Hansard,* 7 April 2009, p. 64.

247 *Proof Committee Hansard,* 7 April 2009, p. 29.

3.259 However, Mr Graham Hercus, After Care Support, United Protestant Association of New South Wales, felt that some form of centralised control or guidance of church records was necessary, due to both the limited means of many such organisations and that fact that many were no longer in existence:

> …in an ideal world you would have the past provider making sure that…[access to records] was being delivered in a compassionate and caring manner. But, given that quite a large number of the past providers no longer exist and that a lot of the forgotten Australians will not have anything to do with the past provider…you have a number of intractable problems there. Probably the only way to manage this is through some external agency. Whether that is governmental or some sort of non-government agency that was appointed by government and financed by government is a matter to be resolved.[248]

Forgotten Australians Recommendation 18

That the Commonwealth request the Council of Australian Governments to review all Federal and State and Territory Freedom of Information regimes to ensure that they do not hinder access by care leavers to information about their childhoods and families.

Government response

The Australian Attorney-General will raise this proposal with his state and territory counterparts.

Implementation

3.260 *Forgotten Australians* report found that care leavers had experienced problems with FoI legislation. This included both difficulties in gaining access to information, particularly third-party information; and only partial information being released once access was granted, due to privacy restrictions on viewing information related to third parties. As noted above under the consideration of State regimes and processes for access to personal information, all States possess FoI legislation which in most cases directly or indirectly governs the release of information to care leavers.

3.261 Mr Hercus observed that in some cases the complex and bureaucratic nature FoI was still operating as an effective barrier to care leavers:

> Experience to date seems to show that if you were a state ward and you want to get access to your state ward records you have to go through a freedom of information process that is really quite complex, bureaucratic and slow, and people often give up in the chase.[249]

248 *Proof Committee Hansard,* 7 April 2009, p. 33.

249 *Proof Committee Hansard,* 7 April 2009, p. 29.

3.262 In addition, the AFA believed that people making FoI applications were not being properly informed about their rights under such acts:

> Our understanding is that applicants are not usually informed of their rights under s30.3 of the FoI Act (under which, if it is .reasonable. to do so, the Department may contact a third party to see if they have objections to information about them being released to an applicant).[250]

3.263 Many submitters and witnesses emphasised the ongoing problems of the privacy restrictions on viewing information related to third parties, which, for care leavers, meant that they were often prevented from accessing information related to members of their own families. Mr Andrew Murray identified the tension between privacy considerations and the needs of care leavers:

> Privacy restrictions can mean that people finally access their records, only to discover that substantial information has been withheld, especially when attempting to access records of other family members. In some cases these records are bound to contain vital information in the quest to trace family members or the person's history. Under privacy legislation, family information is considered information about a third party and is treated differently to the personal information of the searcher. Overall, third party privacy restrictions pose a frustrating barrier to care leavers.[251]

3.264 Ms Ketton believed that current arrangements placed undue emphasis on the privacy considerations of third parties at the expense of care leavers' and their families' right to know. This led to lasting detrimental effects on care leavers' 'sense of self and emotional wellbeing'.[252]

3.265 Ms Diane Tronc commented on the frustration of such restrictions on personal information:

> I feel very disappointed with the FoI system…A lot of our files are blacked out. I lost my real mother and father when I was very young, and I did not get to spend that much time at all with my real family that I can recall. I feel that now is the time to lift the blackness and to give me the truth about my life now that both parents on each side have deceased. I would like my next of kin to have those rights and the blackness lifted on my files.[253]

3.266 Mr Frank Golding also spoke of the frustrations arising from his personal searches for immediate family records:

> The stories of accessing the files of my mother's sisters demonstrate that taking a narrow view of entitlement to records - that access is to the person's own files and no more – is short-sighted and ill-conceived. Firstly,

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250 *Submission 10*, p. 12.

251 *Proof Committee Hansard*, 31 March 2009, p. 21.

252 *Proof Committee Hansard*, 6 April 2009, p. 39.

253 Private capacity, *Proof Committee Hansard*, 6 April 2009, pp 81-82.

> former inmates need to know the full story of their extended family not just the parts of the story connecting one individual to the welfare system. The better they understand the bigger picture the better they will understand their particular piece of the mosaic.[254]

3.267 Mr Andrew Murray called for changes to privacy legislation, and urged the Committee to:

> …campaign for…greater and more sympathetic access [to information for care leavers], including ending the misuse of privacy rules to prevent proper-purpose access.[255]

3.268 The AFA believed there was a need for particular legislation to allow care leavers to access identifying information about their families.[256]

3.269 Updating the Commonwealth government's response to recommendation 18, the FaHCSIA submission states:

> The then Australian Attorney General wrote to state premiers in May 2006, but did not suggest referral to the Standing Committee of Attorneys-General (SCAG). All jurisdictions responded saying that they were investigating the matter.
>
> Jurisdictions were to complete a template, requesting information on current practices in relation to information release and care leavers accessing records and forward this to the QLD Department of Communities.
>
> The template was completed, however contact needs to be made with the Queensland Department of Communities to progress this information.
>
> FaHCSIA is not aware of further action.[257]

3.270 New South Wales advised that it supported this recommendation 'in-principle, and noted that in NSW former wards of the State do not need to apply for access to their personal information under the NSW *Freedom of Information Act 1989*, but are granted access in accordance with the provisions of the NSW *Children and Young Persons (Care and Protection) Act 1998* and the NSW *Privacy and Personal Information Protection Act 1998*.[258]

3.271 In August 2008, Queensland announced that it intended to 'overhaul' of its FoI laws in response to the recommendations of the FoI Independent Review Panel, with the aim of 'providing the public with greater accessibility to information and better transparency'. This would include the implementation of a new legislative framework

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254 *Submission* 16, Additional information dated 11.4.09.

255 *Proof Committee Hansard*, 31 March 2009, p. 21.

256 *Submission 10*, p. 12.

257 *Submission 4*, p. 11.

258 *Submission 24*, p. 7.

known as the R*ight to Information Act*.[259] While it was not clear whether the act would specifically address the privacy issues that present problems for care leavers, Mr Andrew Murray noted with approval that Queensland was considering privacy legislation as part of its FoI review:

> The Queensland government has issued two draft bills for simultaneous public consultation—the Right to Information Bill 2009 and the Information Privacy Bill 2009—for the very good reason that privacy is the flip side to public disclosure and one should not be considered in isolation of the principles and practices of the other.[260]

3.272 South Australia advised:

> The South Australian Department for Families and Communities currently processes Freedom of Information requests through an accredited Freedom of Information Officer.[261]

3.273 Tasmania did not provide any comment on FoI issues.

3.274 Western Australia considered the implementation of this recommendation as being 'a matter for the Commonwealth Government',[262] but noted that third-party FoI restrictions continued to operate in relation to care leavers:

> The Department does not allow persons to view original information relating to themselves. Information is edited and copies provided, as there is often third party information entwined with a person's personal information.[263]
>
> In Western Australia descendants of former child migrants may apply to have access to records held by the Department for Child Protection. Any information released must comply with the principles and guidelines for release of information under the *Freedom of Information Act*.[264]

3.275 Ms McKenzie advised the Committee that the Commonwealth had recently undertaken reform of the FoI regime:

> On 3 April 2009 Senator John Faulkner launched the draft exposure bill for the freedom of information reform. Consistent with recommendation 18, the amendments proposed in the two draft bills represent the first significant reform to the FoI Act since its commencement in 1982. It is a

259 *Submission 15*, p. 5.

260 *Proof Committee Hansard*, 31 March 2009, p. 21.

261 *Submission 30*, p. 6.

262 *Submission 11*, p. 9.

263 *Submission 11*, p. 9.

264 *Submission 11*, p. 5.

> reform which will reposition the act as a cornerstone law in Australian government accountability legislation.[265]

3.276 Ms Essex indicated that the proposed changes to FoI legislation could improve access for care leavers:

> One of the things that Forgotten Australians speak about regularly is the difficulty of accessing their own records, or records that are relevant to them, particularly in relation to siblings, their history and their identity. Our understanding is that the changes proposed to the freedom of information laws may make that process simpler for them, less costly, and give them better access to government records.[266]

Role and operation of support groups and other bodies

Advocacy and support groups

Forgotten Australians Recommendation 19

That the Commonwealth fund a national conference of service providers and advocacy and support groups with the aim being to establish a professional national support and advocacy body for care leavers; and that this body be funded by the Commonwealth and State Governments and the Churches and agencies.

Government response

The Australian Government supports in principle the proposal for a conference of service providers, but not with a pre-determined outcome. Such a conference could identify ongoing needs of care leavers and make recommendations about the most effective ways of meeting those needs. The Australian Government is prepared to work with states and territories to convene a meeting of service providers and will discuss cost-sharing arrangements with states and territories. The Government cannot commit to funding of any outcomes in advance.

The Australian Government acknowledges the important role played by service providers and advocacy and support groups for care leavers. The Government notes that it already provides significant funding for counselling and support in the areas of child abuse and/or sexual assault.

The Australian Government considers that the establishment of any national support and advocacy body for care leavers would need to ensure that it does not duplicate services already available in some states. A state-based approach to providing support and advocacy is beneficial as it provides care leavers with the opportunity to

265 *Proof Committee Hansard*, 8 April 2009, p. 59.

266 *Proof Committee Hansard*, 8 April 2009, p. 66.

talk to others with similar experiences and with counsellors who are aware of the specific experiences of children in those locations.

If there were seen to be a role for a national body, a fair and transparent selection process would be appropriate.

Implementation

3.277 *Forgotten Australians* found there was a need to establish a 'professional advocacy and support group' to operate nationally in the interests of care leavers; the Committee envisaged that if such a group were established it should be funded by the Commonwealth and State governments as well as churches and agencies.[267]

3.278 The FaHCSIA submission advised that the Commonwealth had acted on the commitment expressed in its original response by providing a grant of $100 000 'to assist people who were in institutional care as children through advocacy and support groups'. It was intended that the allocation of this money would be decided in conjunction with the planning and holding of the national conference of service providers and advocacy groups.[268]

3.279 The national conference was convened by the Commonwealth government in June 2006. It was attended by representatives of government, churches and religious organisations, support groups, service providers and people who have experienced out-of-home care as children.

3.280 FaHCSIA noted that the conference had 'identified the ongoing needs of Australians who experienced institutional care as children and made recommendations about the most effective way of meeting those needs'. Participants agreed that there was a need for a peak body to represent and advocate for the needs of Forgotten Australians at a national level.

3.281 Following the conference, the Alliance for Forgotten Australians (AFA) was established. The AFA was launched on 16 October 2007, with FaHCSIA providing 'substantial guidance and assistance during its initial establishment period'.[269]

3.282 The AFA has a steering Committee comprised of Forgotten Australians and an advisory group, with Families Australia providing auspicing and secretariat support. This structure was described by one witness as being 'fair, sound and robust'.[270]

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267 *Forgotten Australians*, p. 300.

268 *Submission 4*, p. 1.

269 *Submission 4*, p. 3.

270 Ms Cherie Marian, *Submission 26*, p. 16.

3.283 The AFA acts as a national advocacy body that aims to broadly represent existing support and service organisations; and promote the interests of people in all States and territories who experienced institutional or other out-of-home care as children. The AFA membership includes Forgotten Australians as well as former child migrants and foster children and members of the stolen generations. The AFA submission states that it works with the 'knowledge and cooperation' of its members, and works to advance its objectives at all levels of government. Its goals are:

> Obtaining adequate acknowledgement, accountability and redress for past wrongs.
>
> Achieving the full implementation of the recommendations of the Senate Report, overseen by a National Watch Committee that would include Forgotten Australians (at least 51%).
>
> Supporting current efforts to highlight child protection issues, including those relating to Indigenous people and child migrants.[271]

3.284 Ms Harrison provided the following description of the AFA's advocacy role:

> We are not a support group and we do not operate as a support group. We operate as a peak body, so the opportunities for us to contact and deal with individual forgotten Australians are through our members who are operating in the different states...[272]

3.285 The AFA submission expressed the alliance's commitment to working cooperatively and productively with all care leavers and support and advocacy groups:

> AFA will develop and enhance its links to the Stolen Generation and Child Migrants and will work productively with all organisations representing people who grew up in institutional or other out-of-home care in the 20th Century, regardless of how those children came to be in care. Links are already in existence between groups representing these three categories, and cooperative work will ensure that, while differences between the groups are recognised and respected, they do not impede the common cause of improving the lives of survivors.[273]

3.286 Ms Ketton commented:

> …we believe that the establishment of the Alliance for Forgotten Australians has been a positive development towards promoting the interests of care leavers on a national level. This has also allowed for the exchange of important information between states and territories regarding responses and services for care leavers.[274]

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271 *Submission 10*, p. 1.

272 *Proof Committee Hansard*, 30 March 2009, p. 67.

273 *Submission 10*, p. 3.

274 *Proof Committee Hansard*, 6 April 2009, p. 39.

3.287 Micah Projects Inc. saw an important role for the AFA in the coordination of the Commonwealth's interest and role in ensuring the implementation of the *Forgotten Australians* report:

> The Esther Centre asks the Australian Government to reconsider the findings and recommendations of the Senate Committee report to establish dialogue at a national level through the *Alliance for Forgotten Australians* (AFA)...[275]

3.288 The Committee heard that additional funding of $100 000 has been provided to the AFA during 2008-09.[276] The AFA submitted that in total it had received $204 000 of Commonwealth government funding over two years which had covered its operation.

3.289 The AFA had also received funding for the production and distribution of an information booklet, *Forgotten Australians: supporting survivors of childhood institutional care in Australia*.[277] FaHCSIA advised:

> …[The Government] provided AFA with a $20,000 grant to greatly extend the publication of its booklet for service providers. AFA's information booklet was designed to improve community awareness and provide support services the background information they need to recognise, relate to and address the unique needs of people who spend their childhoods in out-of-home care.[278]

3.290 Despite funding to date, the AFA submitted that it required a more substantial funding commitment to continue its work:

> The Australian Government should provide ongoing three year funding for the continuation of AFA. AFA has made good initial strides but, without ongoing financial support, it is highly unlikely that the Alliance will be able to continue to advocate on behalf of the Forgotten Australians, raise awareness amongst the general public about the issues facing Forgotten Australians and provide a national, coordinated voice in advising and consulting with government/s.[279]

3.291 Ms Cherie Marian observed that the AFA's funding was insufficient for it to provide an appropriate level of resources and staffing to properly function as a the national advocate for care leavers:

> Currently…AFA is staffed by one person for only 1.5 days a week (not inclusive of secretariat / administration support)! This level of staffing to advocate on behalf of a population comprising half a million people, is

275 *Submission 33*, p. 1.

276 *Submission 4*, p. 3.

277 *Submission 10*, p. 1.

278 *Submission 4*, p. 3.

279 *Submission 10*, p. 2.

> grossly inadequate. AFA's lack of resources means that the ability to advance the cause of Forgotten Australians…in vital areas such as research and policy development is very limited…In order to maximise accessibility and efficacy AFA must be expanded to have a minimum of at least 1 EFT worker 'on the ground' in each state and territory.[280]

3.292 The AFA also identified funding of service provision organisations as being critical to the AFA's effectiveness:

> …the maintenance of both AFA as a peak body and of service provision organisations…is crucial to achieving improvements in meeting the needs of Forgotten Australians. To have AFA and the service providers working cooperatively to promote the interests of Forgotten Australians is of enormous use to the Australian Government as it devises an improved response to the needs of Forgotten Australians.[281]

3.293 Ms Walsh felt that, given its current level of funding, there was a need to carefully consider how the AFA could best work and integrate with organisations providing services to care leavers at the State level:

> It is really important to have a national approach, and therefore the alliance plays an important role in that. There probably needs to be more discussion about how that actually operates, because the money for its operation is minimal. In order for the expectation of forgotten Australians that their participation will feed into a national alliance, the states have to have the capacity to do that locally. At the moment that is not the case. A lot of work by forgotten Australians is done voluntarily.[282]

Forgotten Australians Recommendation 20

That the Commonwealth and State Governments and Churches and agencies provide on-going funding to CLAN and all advocacy and support groups to enable these groups to maintain and extend their services to victims of institutional abuse, and that the government and non-government sectors widely publicise the availability of services offered by these advocacy and support groups.

Government response

The Australian Government acknowledges the work CLAN has done in bringing together the stories of the individuals and families who suffered abuse and neglect in institutions. The Government commends CLAN for effectively reshaping the country's history by drawing the nation's attention to these tragic events. It is now important for governments, churches and agencies to take responsibility for delivering positive and

280 *Submission 26*, p. 16.

281 *Submission 10*, p. 13.

282 *Proof Committee Hansard*, 6 April 2009, p. 37.

concrete responses, and it remains to be seen what role CLAN and other support groups now have to play in encouraging them to do so.

The Australian Government has committed $100,000 to CLAN as a one-off grant for the provision of counselling services to care leavers. The definition of any ongoing role for CLAN, or another national support body, would be expected to emerge from the conference proposed in Recommendation 19. Appropriate structures and sources of funding would be determined following discussion of recommendations from that conference. There are other care leaver support bodies, specifically providing services in some states to people who were in care in each of those states.

While ongoing support for care leavers is primarily a role for state and territory governments, churches and agencies, the Australian Government will commit additional funding of $100,000 to assist care leavers through support groups, to be determined in conjunction with the planning and holding of the national conference.

Implementation

3.294 The *Forgotten Australians* report received a considerable amount of evidence establishing the valuable support and advocacy provided by CLAN and the many other groups around Australia accessed by care leavers. The Committee found that 'all advocacy and support groups play an important role in providing assistance to care leavers' and should be supported by governments as well as non-government agencies by the maintenance of existing funding; with additional funding; and with funding provided on a recurrent basis.[283]

3.295 In both the past and present inquiries CLAN was identified in particular as providing an extremely valuable support and advocacy service for older care leavers on limited funding; and as a group that enjoyed widespread support from care leavers as well as other organisations.

3.296 CLAN's services include:

- telephone support and information to individuals and families in all States;
- face to face support where clients can visit the CLAN office;
- assistance with accessing State ward files and records of residence in an orphanage or children’s home;
- email support and information;
- maintenance of a website with information relating to care leaver issues including an expanding gallery of homes photos;
- bi-monthly newsletter with information relating to care leaver issues, which also provides a forum in which care leavers can exchange views and have their personal history published;

283 *Forgotten Australians*, pp 292-300.

- a library service for care leavers,
- a research service for academics and students;
- a central archive and museum of care leaver history and experience;
- support at reunions;
- social gatherings in all States;
- advocacy on all care leaver issues; and
- establishment of the National Museum of Orphanage Life, a unique collection of artefacts, photographs and other memorabilia which will be featured early in 2009 on the ABC TV program *Collectors*.[284]

3.297 Mr Golding observed that support groups generally provide a variety of services for members, such as access to records, counselling, an opportunity to tell stories, to be in groups of like-minded people, to share experiences'.[285] However, the level of funding CLAN's antecedents could be traced to groups formed in the 1990s and, as such, had been pursuing the objectives of the Committee's recommendations for a considerable period without government funding.[286]

3.298 As indicated in its response, the previous Commonwealth government declined to provide on-going or recurrent funding to CLAN. However, in recognition of CLAN's work, the government provided a one-off grant of $100 000 for professional counselling services to assist care leavers dealing with personal or family trauma.[287]

3.299 The CLAN submission urged the Commonwealth government to provide recurrent funding for CLAN, in-line with recommendation 20, to operate as the national support body and as a 'counterpart' to the AFA as the national advocacy body. It stated:

> CLAN…has to find its own funding each year. CLAN has no guaranteed ongoing funding, and it never has had.[288]

3.300 This request was repeated by numerous submitters and witnesses. Mr Golding, in a private submission, noted that while the AFA was an 'excellent concept' that should continue to be supported, the alliance 'is not a substitute for CLAN and the other support groups which provided direct services to Forgotten Australians'. He continued:

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284 *Submission 21*, p. 10.

285 *Proof Committee Hansard*, 30 March 2009, p. 18.

286 *Proof Committee Hansard*, 30 March 2009, p. 14.

287 *Submission 4*, p. 1.

288 *Submission 21*, p. 8.

> In the light of the poor track record of conventional agencies in dealing with these matters which has led the nation to the state of 'shame for this country' it is important that an ongoing grant be made available to CLAN - the one organisation that has 'effectively reshaped the nation's history' - and to other organisations at the coal face.[289]

3.301 However, Origins Inc. criticised CLAN's membership model on the grounds that it effectively restricted the provision of services to people who were inclined and/or able pay a membership fee. Origins Inc. therefore believed that Commonwealth funding, as well as any State funding, should be 'designated' for all Forgotten Australians and not restricted to CLAN members alone.[290] It reported:

> …[Origins] has been approached by a number of clients who complained that support was not offered unless they became CLAN members.[291]

3.302 Mr Meekins was also critical of CLAN's membership fee:

> How is it possible for any State Ward on the streets to find extra money to join CLAN so they can access information and, it is a further insult asking any State Ward to pay for their own information. This JOINING FEE must be abolished.[292]

3.303 In response to this criticism, CLAN argued that it was necessary to charge membership fees, given the insecurity of its funding and the scope of the services it provided, as outlined above. CLAN advised that in addition to membership fees its funding was comprised of:

- a one-off payment of $85 000 from the Victorian government as part of a package for care leaver support associated with the Victorian apology;
- with the exception of Queensland and Western Australia, (non-recurrent) annual grants from State governments generally between$10 000 and $15 000;[293]
- a small number of 'past provider' grants, usually around $5000 but occasionally $10 000;
- in relation to services provided as part of the Redress Western Australia, payment on a fee-for-service basis by the Western Australian government; and
- donations.

289 *Submission 16*, p. 10.

290 *Submission 2*, pp 15-16.

291 *Submission 2*, pp 15-16.

292 *Submission 44*, p. 4.

293 *Submission 21*, p. 11.

3.304 CLAN observed that because the nature of all its funding sources was unpredictable, as well as being modest in extent, it was therefore necessary to continue to charge membership fees for the present:

> Membership fees make a difference to CLAN because they help to keep our service going, but we look forward to the day when we can drop them, because that would mean we had real, and realistic, funding.[294]

3.305 The New South Wales submission states that in March 2008 CLAN was given funding of $70 000 over two years.[295]

3.306 Queensland did not comment directly on this recommendation. The Committee understands that the State does not currently provide direct funding for CLAN.[296]

3.307 South Australia advised that in addition to funding of $5000 in 2004-05 it had now committed to provide $15 000 in recurrent funding. [297]

3.308 Ms Jacob advised that Tasmania provided $10 000 per annum in funding to CLAN.[298]

3.309 In 2006, Victoria provided $1.4 million over three years to be shared by CLAN and VANISH.[299]

3.310 Western Australia advised that it had provided one-off funding of $10 000 to CLAN in 2004-05 as well as $5000 to its WA 1800 number. [300]

3.311 Ms McKenzie advised that the Commonwealth had recently approved $50 000 in funding for CLAN; the National Archives of Australia had also agreed to provide a number of relevant Defence service records to the organisation free of charge.[301]

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294 *Submission 21*, pp 8-9.

295 *Submission 24*, p. 8.

296 CLAN website, 'CLAN needs real funding', http://www.clan.org.au/news_details.php?newsID=75, accessed 16 June 2009.

297 *Submission 30*, p. 7.

298 *Proof Committee Hansard*, 8 April 2009, p. 81.

299 Department of Human Services (Victoria) website, Media Release, 'Victorians apologise to abused former wards', 9 August 2006, http://hnb.dhs.vic.gov.au/web/pubaff/medrel.nsf/LinkView/C0AEAB7E4B196DDDCA2571C50028CC12?OpenDocument, accessed 16 June 2009.

300 *Submission 11*, p. 10.

301 *Proof Committee Hansard*, 8 April 2009, p. 58.

3.312 In relation to future and recurrent funding, Ms Essex stated that the department was committed to continued engagement with CLAN concerning its funding needs.[302]

3.313 Many submitters and witnesses identified the need for adequate recurrent funding for CLAN to allow it to continue to provide its specialist services. The ACWA described CLAN as the body that best helps the care leaver population and called on the federal government to take on the responsibility of funding 'this essential national organisation'.[303] Mr Golding, for example, observed that the present funding arrangements made CLAN's year-to-year operation difficult:

> CLAN, the leading support organisation at a national level, is not assured of ongoing funding and must go cap in hand to ask for money just to keep their doors open.[304]

3.314 Mr James Luthy submitted that recurrent funding for CLAN should be adequate to allow it to expand its services nationally:

> CLAN is doing what the Government and churches won't do, and that is deal with those affected persons in a compassionate and caring manner…[CLAN's] importance as an organisation which deals with 'homies' cannot be overly emphasised. Recurrent Government and church funding should be an on-going process for at least ten years. Proper funding for CLAN should enable the organisation to establish offices in each capital city with an allowance to enable representatives to also visit rural communities and cities.[305]

Other groups

3.315 Recommendation 20 also calls for other advocacy and support groups to be funded to enable them to continue to deliver services and support to care leavers. However, the Commonwealth government response offered no such commitment, indicating only that the government expected the ongoing roles of other groups, as well as the appropriate structures and sources of their funding, to arise from the Forgotten Australians national conference in 2006.

3.316 As with the previous inquiry, the present inquiry found that, beyond the groups with a national focus such as the AFA and CLAN, there is a number of support groups for care leavers that provide a broad range of types of advocacy and support for care leavers to access. These groups may have diverse origins and distinctive aims and philosophies underpinning the support offered. However, all such groups share a desire to promote the interests of the survivors of abuse and neglect in institutional

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302 *Proof Committee Hansard*, 8 April 2009, p. 68.

303 *Submission 28*, p. 6.

304 *Proof Committee Hansard*, 30 March 2009, p. 15.

305 *Submission 36*, p. 1.

care. An example of one such group is Origins Inc. which provided a submission to the inquiry:

> Origins Inc was formed in 1995 by a small group of mothers who had lost children to adoption, not only in Australia but also from other parts of the world. This group of women had been previously involved with other groups including Jigsaw, Mothers for Contact, before they formed Origins with the intention of exposing the mental health and legal issues of adoption, and family separation.
>
> Origins being the forerunner and the only independent organisation of its kind in the early 1990s also attracted, supported and counselled with outreach programs for people separated from their families through various forms of confinement in State and religious institutions including ex-foster care leavers. These activities of necessity broadened our base, apart from those people affected by adoption which was our original charter.[306]

3.317 Origins Inc. provided a range of services including:

- counselling and advocacy;
- searching advice and help and also mediation with family reunions;
- welfare relief such as food, clothing and furniture;
- information and referral to other welfare organisations;
- online chat forums and newsletters; and
- social events.

3.318 Another group which provided a submission was Wings for Survivors. This group offered a form of collective support for Forgotten Australians, and provided an opportunity for them to access a social network of people with similar life experiences. As many care leavers were often wary of social interaction, the Wings for Survivors website represented an opportunity for social interaction and communication. Ms Findlay explained:

> Wings for Survivors…was set up by a forgotten Australian who creates websites herself. It was her dream to open up a website so we forgotten Australians could come together to be creative, to tell our stories, to get support from other survivors, to have an opportunity to say what we want to say to each other, to find families or best mates that we grew up with and to put down information that many of us have been left in the dark about…
>
> ...[We] are 75 members and growing. We get a lot of satisfaction and a lot of support from each other. Our stories are being told, and we listen and we acknowledge and we support each other, and that is what the site is all about.[307]

306 *Submission 2*, p. 2.

307 *Proof Committee Hansard,* 30 March 2009, p. 49.

3.319 Mrs Lana Syed-Waasdorp also described her involvement with support group activities operated by HAN in Queensland:

> With the historical abuse, we have what we call the 'empower arts'. We are a small group that is run under the Historical Abuse Network, and we do help people to try to help themselves by being active. We do lots of things such as making Christmas cards and calendars for the new year. We try to get people involved in art or some kind of work so that they can improve themselves and become independent.[308]

3.320 Mr Andrew Murray noted, as a generalisation only, that many care leavers, due to the abuse and neglect suffered in childhood, had psychological and other characteristics that caused them difficulties in dealing with not only individuals but also organisations. For this reason, a multiplicity of support groups was desirable, as it gave care leavers a choice of which support group or groups to attend, depending on which groups they felt comfortable with.[309]

3.321 The Committee heard that a number of other support and self-help groups of varying sizes have been formed since the earlier inquiry. In addition to Wings for Survivors noted above and the fledgling Forgotten Australians Coming Together in WA, the Committee took evidence from representatives of the Healing Way for Forgotten Australians in Sydney. This group offers workshops and retreats for small groups of people that provide a range of informal activities and services.[310]

3.322 Another group, Forgotten Australians of South Australia has been formed. The group is an incorporated body with a constitution and is not restrictive on who can become involved. They prefer to use the expression 'system leaver' rather than care leaver arguing that 'care' is what they were not provided with as children. The group provides advocacy and self-help services and are in the process of establishing premises in Adelaide from which to operate. Families South Australia has provided some assistance and the group has held brainstorming sessions with the Department which has proved valuable in identifying the needs and concerns of care leavers and the directions for future services. The group is pushing for broader and more specialised services.[311]

3.323 The Committee received little evidence to suggest that the funding of any care leaver advocacy or support groups, apart from the AFA and CLAN, has received significant consideration by the Commonwealth or any State governments.

3.324 New South Wales advised that it funded a number of care leaver support and advocacy groups:

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308 Private capacity, *Proof Committee Hansard*, 6 April 2009, p. 15.

309 *Proof Committee Hansard*, 31 March 2009, p. 31.

310 Proof *Committee Hansard* , 7 April 2009, pp.9-19.

311 *Submission* 38 (Anthony Forrest) and *Submission* 44 (Ki Meekins).

- Relationships Australia: to operate a helpline for older care leavers; and to assist care leavers to make contact with family members;
- Link-Up: to assist Aboriginal adults who were separated from their families as children through wardship, adoption, fostering or institutional care; and
- The Salvation Army Special Search Service: to help care leavers who were separated from their child or family through the intervention of the NSW Government locate family members.[312]

3.325 Queensland noted the funding. development and company-location of care leaver services through Lotus Place, including the Historical Abuse Network, the Esther Centre and the Aftercare Resources Centre.[313]

3.326 South Australia advised that it promoted the existence of advocacy and support groups through its face-to-face and phone contacts. Further, Post Care Services was running a pilot support group for people formerly in State care who suffered abuse. FaHCSIA had provided three year funding to Relationships Australia SA to provide training to practitioners leading groups of this nature.[314]

3.327 The Tasmanian government advised:

> The Tasmanian Government has shown its ongoing commitment to supporting care leavers by providing an increased level of recurrent funding to the CREATE Foundation.[315]

The Committee notes, however, that the CREATE Foundation is 'a club for children and young people in care, or with a care experience' and would not appear to offer support and/or services for older care leavers.[316]

3.328 Submissions across the spectrum of stakeholders called for more funding of groups involved with advocacy, support and service provision for care leavers. Evidence generally indicated that present funding arrangements for such groups was inadequate:

> This recommendation has not been enacted to its full integrity, and to our knowledge apart from CLAN and maybe one or two other support organisations there has been no funding to other support groups for their most basic needs to service clients.[317]

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312 *Submission 24*, pp 7-8.

313 These are discussed in more detail under *Forgotten Australians* recommendation 21 above.

314 *Submission 30*, p. 6.

315 *Submission 7*, p. 2.

316 CREATE Foundation website, http://www.create.org.au/print/CREATE_TAS/, accessed 12 June 2009.

317 Origins Inc., *Submission 2*, p. 18.

3.329 Mr Andrew Murray observed:

> …the fact is that the CLANs of the world, the Child Migrant Trusts of the world and the voluntary organisations are terribly badly funded and supported, and bureaucrats make them jump through hoops…[318]

3.330 Origins Inc provided a typical example of the difficulties and ongoing uncertainty around securing funding for such groups:

> Origins has approached local, State and federal governments for funding on a number of occasions and has been rejected each time. We have been fortunate to get funding on 3 occasions from local Sports Clubs, the first time in 2003 getting funding of $24,000 for a part-time worker and administration costs. In 2005 funding of $2000 dollars for rent and administration was received and in 2007 we received a grant of $4000 for rent and administration costs.[319]

3.331 Professor Maria Harries, Associate Member, AFA, commented on the difficulty of securing funding to institute a new support group in Western Australia:

> We have also been trying very hard to set up an organisation in Perth called FACT—Forgotten Australians Coming Together—which will be the WA equivalent of the other state organisations…[We] have been struggling to do that. We are currently in the position where…our letters are not being responded to at all in terms of getting some sort of funding to do that. We cannot do it without resources.[320]

3.332 The AFA observed that the proper funding of a range of groups offering support and services was important to complement its advocacy work:

> …the maintenance of both AFA as a peak body and of service provision organisations (including HAN, VANISH, CLAN and Origins) is crucial to achieving improvements in meeting the needs of Forgotten Australians. To have AFA and the service providers working cooperatively to promote the interests of Forgotten Australians is of enormous use to the Australian Government as it devises an improved response to the needs of Forgotten Australians.[321]

3.333 Adequate funding of other support groups would also ensure that care leavers were not excluded from assistance by the need for organisations to charge membership fees.[322]

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318 *Proof Committee Hansard*, 31 March 2009, p. 31.

319 *Submission 2*, p. 16.

320 *Proof Committee Hansard*, 31 March 2009, p. 34.

321 *Submission 10*, p. 13.

322 *Submission 10*, p. 14.

3.334 Origins Inc. cited anecdotal reports of care leavers feeling or being excluded from some support groups or services, on the grounds of discriminating definitions applied to different groups of care leavers:

> …some support organisations are trying to marginalise groups of former care leavers from being identified as Forgotten Australians. This includes both indigenous and non-indigenous care-leavers, foster care, persons who have spent short times in care or detention, long term training centres and unadoptable disabled children, etc.[323]

3.335 Accordingly, the group called for greater transparency and accountability in government funding, as well as appeal rights for applicants who are denied support or services. An independent body was also required to receive complaints about discrimination and unfair treatment.[324]

3.336 Ms Walsh noted that some level of dissatisfaction was common where bodies were required to make operational decisions in the context of limited funding and resources:

> There are major dynamics of how people understand and use power both within themselves and within us as professionals, and we try to reflect seriously so that we do not misuse our role and disempower people, but we understand that we do not agree with everybody and that at times we have to make decisions based on what have become very scarce resources for a population group that has grown overnight.[325]

3.337 The Committee's original recommendation also called for government and non-government sectors to 'widely publicise' the availability of services offered by advocacy and support groups. However, CLAN cited evidence of a survey of mental health services in the Sydney area which found a very poor level of knowledge of the *Forgotten Australians* report as well as the existence and particular needs of 'older care leavers'.[326]

3.338 The main support and advocacy body for former child migrants is the CMT. Funding for this body is discussed above under consideration of delivery of services, *Lost Innocents* recommendation 5.

3.339 Discussion on the implementation of the recommendations addressed in this chapter and the Committee's conclusions and recommendations are contained in Chapter 6.

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323 *Submission 2*, p. 4.

324 *Submission 2*, p. 4.

325 *Proof Committee Hansard*, 6 April 2009, p. 31.

326 *Submission 21*, p. 10.

CHAPTER 4

LOST INNOCENTS

4.1 This chapter provides a complete listing of the recommendations of the *Lost Innocents* report and the government responses. Recommendations that were not considered in chapters 2 and 3 are also addressed in this chapter.

4.2 Many of the recommendations set out below did not attract extensive comment or evidence through the course of the inquiry. There are a number of reasons that this may be so:

- the specific issue has been addressed or is for other reasons less relevant than at the time of the previous inquiry;
- the specific issue is a subset of a more general recommendation that was commented on; or
- the recommendation was rejected by the government and the relevant issues are substantially unchanged since the time of the original inquiry.

4.3 As noted in Chapter 2, the Commonwealth government has expressed a commitment to review the responses to the *Forgotten Australians* report, which apply to former child migrants who spent time in institutional or out-of-home care.

Recommendation 1

That the Commonwealth Government urge the State and Territory Governments to undertake inquiries similar to the Queensland Forde inquiry into the treatment of all children in institutional care in their respective States and Territories; and that the Senate Social Welfare Committee's 1985 inquiry be revisited so that a national perspective may be given to the issue of children in institutional care.

Government response

The government supports this recommendation and will bring the recommendation to attention of the Community Services Ministers Advisory Council, acknowledging that children in institutions are the primary responsibility of the States and Territories.

The number of children in institutional/residential care has decreased markedly from approximately 27 000 in 1954 to less than 2000 currently. Most states and territories have phased out large institutions, with the majority of residential care now provided in small facilities caring for three to eight children.

Implementation

4.4 The implementation of this recommendation is addressed in Chapter 2.

Recommendation 2

That British and Maltese former child migrants be treated equally in accessing any of the services currently provided or as recommended in this report, including access to travel funding.

Government response

The government supports this recommendation and agrees that former British and Maltese child migrants should be treated equally in accessing any existing or new services proposed in this response (Refer recommendations 17 and 22).

The government, through the Department of Immigration and Multicultural and Indigenous Affairs, (DIMIA) has funded the Child Migrants Trust to provide counselling and family reunification services for former child migrants since 1990. Services provided by the Trust are open to both UK and Maltese former child migrants. The Trust provides support and assistance to approximately 750 UK and Maltese clients per year.

Implementation

4.5 The implementation of this recommendation is addressed in Chapter 3.

Recommendation 3

That the Commonwealth Government establish the means to accurately determine the numbers of child migrants sent to Australia during the 20th century to assist in determining the level of support services and other assistance needed for former child migrants.

Government response

The government considers that statistics on the numbers of child migrants sent to Australia during the 20th century are unlikely to help to determine the level of support and assistance that child migrants living in Australia today might require. Child migrants are not a homogenous group in terms of their needs – some may be happily settled and not want to be identified or need assistance, some may be living abroad, or deceased. The government's focus has been, and continues to be, on addressing needs through the provision of counselling where child migrants have presented seeking support.

In terms of providing further statistical information, DIMIA provided as accurate an estimate as possible of the numbers of child migrants to Australia in its submission to the Senate Inquiry. The statistics were taken from quarterly statistical bulletins published from 1947 to 1961. After 1961 these statistics were no longer published in this format and instead were aggregated with other more general migration statistics, presumably because the numbers of child migrants had declined substantially by that stage.

DIMIA also provided post 1961 statistics, taken from various reports to Parliament recorded in Hansard over the next decade. However these reports were intermittent and did not provide exact numbers involved. In view of this, DIMIA is unable to provide more accurate historical figures than those already provided to the Committee. Future focus will therefore be on identifying levels of need for services, based on those former child migrants seeking them.

Implementation

4.6 The Commonwealth Department of Immigration and Citizenship (DIAC) advised that it could provide no further comment or update on the previous government response.[1]

4.7 The Western Australian Department for Child Protection advised:

> The Department for Child Protection has identified the exact number of child migrants that came to Western Australia as part of the work in creating the Former Child Migrants Referral Index. The total for Western Australia is 2,941 child migrants.[2]

4.8 The Committee did not further consider this recommendation.

Recommendation 4

That in accordance with the 'Statutes of the Most Excellent Order of the British Empire', the Commonwealth Government initiate the process for Francis Paul Keaney's membership of the Most Excellent Order of the British Empire to be cancelled and annulled.

Government response

The government notes the concerns expressed by some former child migrants in relation to Francis Paul Keaney and sincerely regrets the injustices and suffering that some former child migrants may have experienced in institutional care. However the precedents for cancellation of awards of British honours are based on proven criminal offences and would generally result once due appeals processes were exhausted. The serious allegations against Francis Paul Keaney have not been tested through court or appeals processes and cannot be now that he is deceased. The award of OBE ceased with his death. As a result of this, it is not possible to pursue this recommendation.

Implementation

4.9 The Committee received no evidence on this matter and did not further consider the recommendation.

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1 *Submission 27*, p. 3.

2 *Submission 11*, p. 2.

Recommendation 5

That the Commonwealth Government continue to provide funding for at least three years directly to the Child Migrants Trust to ensure that the specialised services of tracing and counselling are provided or accessible to former child migrants living throughout Australia.

Government response

The government supports this recommendation. The government will continue to fund the Child Migrants' Trust for the next three years at an amount of $125,000 plus associated administrative costs per annum.

Implementation

4.10 The implementation of this recommendation is addressed in Chapter 3.

Recommendation 6

That the Commonwealth Government urge the British Government to continue financial resources for the National Council of Voluntary Child Care Organisations (NCVCCO) for the retention and expansion of the Child Migrant Central Information Index.

Government response

This recommendation will be brought to the attention of the British government.

Implementation

4.11 The Committee received no evidence on this matter and did not further consider the recommendation.

Recommendation 7

That the Commonwealth Government urge all State Governments to establish a comprehensive signposting index similar to that established by the Western Australian Government.

Government response

The government supports this recommendation and will refer it to the Community Services Ministers Advisory Council for consideration by State and Territory governments.

Implementation

4.12 The Committee received no evidence on this matter and did not further consider the recommendation. However, Chapter 3 considers the issues of

identification of and access to records of former child migrants and care leavers more generally.

Recommendation 8

That the Commonwealth Government urge all State Governments to co-operate to establish a national index of child migrants.

Government response

The government supports this recommendation and will refer it to the Community Services Ministers Advisory Council for consideration by State and Territory governments.

Implementation

4.13 The implementation of this recommendation is addressed in Chapter 3.

Recommendation 9

That the Commonwealth Government urge State and Territory Governments to publish directories of information to assist all former residents of children's institutions to access records similar to the directories published by the New South Wales and Queensland Governments.

Government response

The government supports this recommendation and will refer it to the Community Services Ministers Advisory Council for consideration by State and Territory governments who have not published such directories. The government notes that there are already several directories in existence:

- *Good British Stock: child and youth migration (Barry Coldrey, National Archives of Australia 1999), which describes records held by the National Archives of Australia about child migration and provides information about how to access them;*
- *Connecting Kin Guide to records: a guide to help people separated from their families search for their records, (NSW Department of Community Services, 1998); and*
- *Missing pieces: Information to assist former residents of children's institutions to access records, (Families, Youth and Community Care Queensland, 2001).*

Implementation

4.14 The implementation of this recommendation is addressed in Chapter 3.

Recommendation 10

The Committee recommends that a national group of all receiving agencies, other relevant bodies and Commonwealth and State Governments be established to develop uniform protocols for accessing records and sharing information relevant to former child migrants, their families and descendants and to coordinate services for former child migrants.

Government response

The National Archives of Australia will raise the issue of developing uniform protocols for accessing records, coordinating services and sharing information at future meetings of the Council of Federal and State Archives (COFSTA), a national forum of government archivists. The National Archives will also promote discussion of the recommendations of the Inquiry within the archival community, which includes government and non-government archivists, to increase understanding of the issues and ways of assisting former child migrants.

The Archives has arranged for an article on the recommendations of the Senate Committee to be published in the Bulletin of the Australian Society of Archivists, the archival professional association. The issues will also be raised in professional seminars and workshops.

The Privacy Amendment (Private Sector) Act 2000 (Commonwealth) signals the Government's commitment to the principle that an individual should be able to access records about him or herself. The legislation came into effect on 21 December 2001. It grants a right to individuals to access information about themselves held by a range of non-government organisations. Although there are some exemptions to this right of access, the Government urges non-government organisations holding records about child migrants to make them available to those migrants.

As noted in Appendix 5 of the Report, the Government recognises that much has already been done in both the government and non-government spheres to assist former child migrants to access records and services.

The Commonwealth, Queensland and New South Wales Governments have published guides describing records about child migrants held in their jurisdiction and providing information about how to access them. The Western Australian government has produced the WA Former Child Migrant Referral Index which assists child migrants to that State locate relevant records. State and Commonwealth Governments actively assist former child migrants to access records and provide, or fund, a range of other services including counselling. Many receiving agencies also facilitate access by child migrants to records (see Appendix 5 of the Report).

In view of the administrative and legislative arrangements already in place and the other initiatives outlined above, the Government does not consider it necessary to establish a national group of receiving agencies, Commonwealth and State Governments and other bodies.

Implementation

4.15 The Committee received no evidence on this matter and did not further consider the recommendation. However, Chapter 3 considers the issues of identification of and access to records of former child migrants and care leavers more generally.

Recommendation 11

That the National Archives of Australia be provided with sufficient funding to ensure continuation of the program of digitising its records relating to child migration.

Government response

The government supports this recommendation. The National Archives has recently introduced a digitisation service for archival records held in its Canberra office and there are plans to extend the service to National Archives offices throughout Australia, enhancing the accessibility of its collection for all Australians. The Archives has a proactive digitisation program targeting records for which there is high demand.

The National Archives has already made digital copies of 34 key files relating to Catholic institutions responsible for child migrants available, in response to a recommendation made by the WA Christian Brothers' Province Archivist in her submission to the Senate Inquiry. The National Archives guide Good British Stock: child and youth migration identifies over 400 records in the Archives collection about child migration. The Archives will investigate the number of publicly available records listed in the guide that remain to be digitised, assess priorities and arrange for these records to be considered for inclusion in its digitisation program.

Implementation

4.16 The Committee received no evidence on this matter and did not further consider the recommendation.

Recommendation 12

That the National Archives of Australia liaise with the Genealogy and Personnel Records Section of the National Archives of Canada in relation to the technology, protocols, processes and procedures the Canadians have implemented to facilitate access to their records for former child migrants and their descendants.

Government Response

The government supports this recommendation. The National Archives of Australia is aware of a number of the activities of the National Archives of Canada concerning access to child migration records by former child migrants and their descendants and has taken these into account in developing its own policies and procedures. To ensure

that the National Archives is aware of details of the technology, protocols, processes and procedures the Canadians have implemented, the National Archives has approached the Genealogy and Personnel Records Section of the National Archives of Canada as recommended by the Senate Committee. The National Archives looks forward to receiving a response and to incorporating useful approaches into its policies and procedures.

Implementation

4.17 The Committee received no evidence on this matter and did not further consider the recommendation.

Recommendation 13

That the Commonwealth Government provide at least three year funding to those agencies engaged in dedicated tracing in the United Kingdom to assist former child migrants to locate their families, based on applications by agencies undertaking that work.

Government response

The government agrees that supporting former child migrants to trace and locate their families in the United Kingdom is an important and practical form of assistance. However the government already does so through its funding of the Child Migrants Trust. The government has given an undertaking to continue to fund the Trust for the next 3 years (refer recommendation 5).

Implementation

4.18 The Committee received no evidence on this matter and did not further consider the recommendation. Recommendation 5 is discussed in Chapter 3, 'Delivery of services'.

Recommendation 14

That all organisations holding records pertaining to former child migrants make these records available to former child migrants or their authorised representative immediately and unconditionally.

Government response

The government supports this recommendation in principle. The principle of an individual accessing records about him or herself is consistent with Commonwealth, State and Territory archival, privacy and freedom of information legislation and administrative arrangements.

The Archives Act 1983 (Commonwealth) provides a legally enforceable right of access to Commonwealth records over thirty years of age. The majority of records pertaining to former child migrants have now passed the thirty year mark. Where

Commonwealth records contain information that is not suitable for public release under the Archives Act (for example, sensitive personal information), access is given only to the subject of the record or their authorised representative.

Commonwealth records less than thirty years of age are generally available to the subject of the record under the provisions of the Freedom of Information Act 1982 (Commonwealth) and the Privacy Act 1988 (Commonwealth).

As noted in responses to recommendations 10 and 15, amendments to the Privacy Act made by the Privacy Amendment (Private Sector) Act 2000 (Commonwealth) grant individuals rights of access to information about themselves held by a range of non-government organisations. The amendments commenced on 21 December 2001.

Implementation

4.19 The Committee received no evidence on this matter and did not further consider the recommendation. However, Chapter 3 considers the issues of identification of and access to records of former child migrants and care leavers more generally.

Recommendation 15

That where any organisation holds primary documents, including birth certificates, relating to any living former child migrant without their express permission, former child migrants be entitled to recover that document from the holding organisation.

Government response

The National Archives of Australia holds many primary documents relating to the interaction of individuals with government although this is more the exception than the rule in the case of child migration records. Such records would more likely be held by those organisations that exercised the role of guardian to child migrants.

The Government notes this recommendation may have differing implications for government, non-government and community organisations holding these records, (see recommendation 14), depending on the legislative framework in which these organisations operate. Recovery of documents held by State and Territory authorities is obviously a matter of consideration for those governments. In the Commonwealth context the National Archives would, in most circumstances, consider these primary documents to be Commonwealth records and therefore would need to comply with the Archives Act 1983 to transfer ownership to another party. It would not be consistent with the Archives' role as custodian of records of archival value to do this.

As noted in response to Recommendations 10, 14 and 16, government archives are responsible for ensuring access to such records and protecting the privacy of child migrants where needed. The Privacy Amendment (Private Sector) Act 2000 (Commonwealth), which came into effect on 21 December 2001, grants individuals

rights of access to information about themselves held by a range of non-government organisations.

Implementation

4.20 The Committee received only two submissions on this issue. New South Wales advised:

> The NSW Government has…amended the *Children and Young Persons (Care and Protection) Act 1998* so that original birth certificates, school reports, medical reports and photographs, greeting cards and similar personal records on archived ward files can now be removed and given to former wards. This amendment prevails over the provisions of the NSW *State Records Act*[3]

4.21 The Western Australian Department for Child Protection advised:

> The Department for Child Protection has made every effort to return birth certificates, where held, to former child migrants. The Former Child Migrants Referral Index created by the Department also indicates where the Department holds a birth certificate.[4]

4.22 The Committee did not further consider the recommendation. However, Chapter 3 considers the issues of identification of and access to records of former child migrants and care leavers more generally.

Recommendation 16

That all sending and receiving agencies be required to extend access to their records to descendants of former child migrants.

Government response

The Government urges all receiving agencies in Australia to continue to assist descendants of former child migrants to access records and so facilitate family tracing and reunion. The Government will convey this recommendation, together with the report, to the UK Government for the information of sending agencies in the UK.

As noted in recommendation 14, Commonwealth records held by the National Archives of Australia about child migrants are already made available to former child migrants or their authorised representatives on request. Where records sought are not suitable for public release but the applicant is the subject of the file or can demonstrate a close relationship with the subject of the file or a particular need for access, the National Archives of Australia will consider granting access to that person, subject to the protection of privacy of third parties. Similar arrangements apply to State government archival records.

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3 *Submission 24*, p. 5.

4 *Submission 11*, p. 5.

In the case of non-government organisations which hold records about child migrants, the Government suggests that such organisations consider allowing access by descendants provided such disclosure does not amount to a breach of any person's privacy.

Implementation

4.23 A number of organisations identified the provision of access to descendants of former child migrants as being problematic. Barnardos advised that it rejected the recommendation on the basis of consultation with its members as well as practical experience with this issue. Mr Bill Hoyles, Senior Manager, Youth Affairs, observed:

> We have taken advice from our own child migrants and many of them are unhappy about the idea of having their personal information released to their relatives after they die, particularly recently because a number of books have been published in which they have told their story and the story that they have told is not necessarily reflected in the files that we have. In many cases they have reinvented their past. They believe that many other people in the community do not have files kept on them. I do not have a file kept on me of my early childhood. I could be anybody that I wish. They want to have that same opportunity.[5]

4.24 Ms Margaret Humphreys OAM, International Director, Child Migrants Trust, acknowledged the issues of individual privacy and choice around the granting of access to third parties to former child migrants' records. The CMT currently dealt with this issue on a case-by-case basis.[6]

4.25 The Committee did not further consider the recommendation. However, Chapter 3 considers the issues of identification of and access to records of former child migrants and care leavers more generally.

Recommendation 17

The Committee recommends that the Commonwealth Government:

- **confer automatic citizenship on all former child migrants, with provision for those who do not wish to become Australian citizens to decline automatic citizenship; and**
- **that a special ceremony conferring citizenship be conducted for former child migrants.**

Government response

The government does not consider that automatic conferral of Australian citizenship is always in the best interests of former child migrants. Automatic conferral could

5 *Proof Committee Hansard,* 7 April 2009, p. 26.

6 *Proof Committee Hansard,* 8 April 2009, p. 22.

have implications, for example, for a former child migrant's existing citizenship/s as well as any legal or other claims they may have overseas.

The government will, however, examine ways to fast-track applications for grant of Australian citizenship from former child migrants, and extend to Maltese former child migrants the fee exemption currently available to British former child migrants. This fee exemption for applications for grant of Australian citizenship is currently available to British former child migrants who entered Australia from the United Kingdom between 22 September 1947 and 31 December 1967. The Government believes that this is an appropriate and symbolically important concession.

The Government will arrange special citizenship ceremonies for former child migrants as appropriate.

Implementation

4.26 DIAC provided the following update to the previous Commonwealth government response:

> The Australian Government did not agree to automatic conferring of Australian citizenship for former child migrants.
>
> There is no provision in the *Australian Citizenship Act 200l* for automatic conferral of Australian citizenship on former child migrants. However, the fee exemption for Australian citizenship applications, which was available to British former child migrants, was extended to include Maltese former child migrants from 1 July 2005.
>
> The department undertook to arrange ceremonies for former child migrants as appropriate. However there are no records to suggest that any special citizenship ceremonies have been requested by former child migrants.[7]

4.27 Barnardos' cited one example of a recent case in which a former child migrant was deported to the UK:[8]

> …a child migrant, who had been in the country for 52 years, [was deported] on the grounds that they had committed an offence that was [punishable by imprisonment] in excess of 12 months…[We do not in any way condone the crimes that he committed but it was the fact that he was deported after 52 years in Australia, having served in the Australian Army and having a wife and two children here.[9]

4.28 However, representatives of the International Association of Former Child Migrants and Their Families advised the Committee that the issues around citizenship for former child migrants had generally been resolved.[10] Ms Humphreys advised that

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7 *Submission 27*, pp 4-5.

8 Mr Bill Hoyles, Senior Manager, Youth Affairs *Submission 9*, p. 5.

9 *Proof Committee Hansard*, 7 April 2009, p. 27.

10 *Proof Committee Hansard*, 8 April 2009, p. 11.

she believed there was currently fewer than five cases in which former child migrants were experiencing issues related to (lack of) Australian citizenship.[11] DIAC was not aware of the cases referred to.[12]

4.29 DIAC advised that it did not have records which could specify the number of former child migrants who have become Australian citizens since arrival in Australia.[13]

Recommendation 18

That the Commonwealth Government urge the United Kingdom Government to extend its contribution to the Child Migrant Support Fund for at least a further three years beyond its anticipated end in 2002.

Government response

This recommendation will be drawn to the attention of the UK Government along with other relevant recommendations. Further funding of the Child Migrant Support Fund is a matter for the UK government to consider.

Recommendation 19

That the Child Migrant Support Fund be supplemented by funding from the Australian Government, State Governments and receiving agencies; and that this funding comprise:

(a) a Commonwealth Government contribution of $1 million per year for three years initially;

(b) a combined contribution from State Governments of $1 million per year for three years initially; and

(c) a contribution from receiving agencies, and that this be funded by a levy or other means on receiving agencies not currently providing travel assistance, in proportion to the number of children placed under their care as a result of the child migration schemes during the 20th century.

Government response

As an alternative to supplementing the Child Migrant Support Fund, the government will contribute towards a new Australian travel fund for former child migrants from the UK and Malta. Further details are provided in response to Recommendation 22.

11 *Proof Committee Hansard*, 8 April 2009, p. 18.

12 Additional information, 19 June 2009, p. 1.

13 Additional information, 19 June 2009, p. 4.

Recommendation 20

That the eligibility criteria for access to the Child Migrant Support Fund be broadened to:

(d) permit visits to family members and other relatives, including aunts and uncles, cousins, nephews and nieces; and for other related purposes, such as visits to family graves;

(e) be available for all former child migrants, including the Maltese and those who may have undertaken previous visits at their own expense;

(f) provide for two further visits but with a reduced level of assistance, limited to the payment of airfares and associated travel expenses;

(g) provide, in exceptional circumstances, travel funding for a spouse, child or other person as an accompanying carer; and

(h) be subject to no means-testing requirements.

Government response

Funding will be contributed by the Government towards an Australian travel fund. Funds will also be sought from State governments. Eligibility criteria will need to be determined in the context of the total pool of funds available from all sources. Refer Recommendation 22.

Recommendation 21

That the Commonwealth Government, together with other stakeholders, undertake a review of its participation in the Child Migrant Support Fund after three years to determine the adequacy of funding from Australian sources for the fund and the extent of continuing demand for travel from former child migrants.

Government response

The government will seek data on the usage and effectiveness of the travel fund in order to monitor the efficacy of the scheme.

Recommendation 22

That, should the Child Migrant Support Fund not be extended by the United Kingdom Government, the Commonwealth Government establish a separate Australian travel scheme to assist former child migrants to visit their country of origin, and that this scheme be funded by contributions from the Commonwealth, State Governments and receiving agencies as detailed in Recommendation 19; and that the scheme have a broad set of eligibility criteria as detailed in Recommendation 20.

Government response

The Government supports the establishment of a new Australian travel fund and will contribute $1m per year, plus associated administrative costs, for 3 years in recognition of the importance of enabling former child migrants to return to their country of origin to re-establish connections and reunite with family members. The Commonwealth will also ask State Governments and receiving agencies to contribute to the fund.

The administration of the fund will be contracted to a suitable provider, following a competitive process. The scheme will commence in the 2002-03 financial year. Former British and Maltese child migrants who arrived under approved child migration schemes and were placed in institutional care in Australia will be eligible for the scheme.

Implementation

4.30 The implementation of recommendations 18 to 22 is discussed in Chapter 3.

Recommendation 23

That, to ensure that choice in counselling services remains available to former child migrants, the Commonwealth Government urge agencies and other State Welfare Departments providing counselling services to maintain those services and expand them where necessary.

Government response

The government supports this recommendation and will refer it to the Community Services Ministers Advisory Council for consideration by State and Territory governments. Former child migrants currently have access to counselling services available in states and territories from government and non-government counselling organisations.

Implementation

4.31 The implementation of this recommendation is discussed in Chapter 3.

Recommendation 24

That the Commonwealth and State Governments in providing funding for boarding house and supported accommodation programs recognise the housing needs and requirements of former child migrants.

Government response

The government recognises that some former child migrants may require housing assistance. The Commonwealth provides supported accommodation and related support services to help people who are homeless or at risk of homelessness to

achieve the maximum degree of self reliance and independence through its Supported Accommodation Assistance Program (SAAP). SAAP's goals are to resolve crisis, re-establish family links where appropriate and re-establish the capacity of clients to live independently of SAAP. The government notes that SAAP may be an appropriate response for former child migrants in crisis situations.

The Commonwealth provides funding for housing assistance to the States and Territories through the Commonwealth State Housing Agreement (CSHA). States and Territories are responsible for service delivery under the CSHA, and provide public and community housing as well as a range of other housing assistance. The guiding principles of the CSHA specify that:

- *priority of assistance should be provided to those with the highest needs;*
- *assistance should be provided on a non-discriminatory basis; and*
- *housing assistance should be responsive to the needs of consumers.*

Implementation

4.32 Neither DIAC nor FaHCSIA directly addressed the implementation of this recommendation in their submissions to the inquiry.

4.33 However, the Western Australian Department for Child Protection (DCP) provided some comment on the Commonwealth government's development of a National Affordable Housing Agreement (NAHA), which would incorporate funding for a Commonwealth-State Supported Accommodation Assistance Program (SAAP). DCP described the NAHA as a 'comprehensive long-term national approach to tackling homelessness including early intervention, breaking the cycle of homelessness and connecting the service system'.[14] However, it was not clear that any program under the NAHA would explicitly recognise the housing needs and requirements of former child migrants.

4.34 The Committee notes that the Commonwealth and State government responses to recommendations 25 to 28 of the *Forgotten Australians* report addressed the issue of recognising care leavers more generally in the funding and development of health, housing, aged care and education programs. This issue is discussed in Chapter 3, 'Delivery of services'.

Recommendation 25

That the Department of Health and Aged Care commission a study into the aged care needs of former child migrants; and that Commonwealth funding be directed into areas of need identified in that study.

14 *Submission 11*, p. 8.

Government response

The government will ensure that Aged Care Planning Advisory Committees and Aged Care Assessment Teams are sensitised to the needs of former child migrants. The government believes that the needs of this group are adequately catered for under the aged care planning, funding and assessment processes provided by the Department of Health and Aged Care. In view of this, the government does not consider that a study of this nature is needed.

Implementation

4.35 The Committee received no evidence on this matter and did not further consider the recommendation.

Recommendation 26

That the Commonwealth Government urge the British Government to ensure that former child migrants living permanently in the United Kingdom are not disadvantaged in gaining access to income support payments following termination of the Social Security Agreement with the United Kingdom.

Government Response

The government considers that in practice there is little or no likelihood of any former child migrants being disadvantaged as a result of the termination of the Social Security Agreement. The termination of the agreement made provision that all people receiving payments under the Agreement would continue to receive those payments. The UK Government has announced that it will continue to recognise periods of residence in Australia, accrued until 6 April 2001, for the purposes of claiming contributory benefits under the (former) Agreement.

It should also be noted if a former child migrant from the UK has qualified for an age pension in Australia, he or she may return to the UK and reside there, and still be paid the Australian age pension.

Means-tested income support payments (similar to Australia's social security payments) are also available to residents of the UK. Relevant Australian income support payments continue to be payable in the UK under Australian social security law (the Agreement did not affect their payment or the payment of UK pensions in Australia).

Implementation

4.36 The Committee received no evidence on this matter and did not further consider the recommendation.

Recommendation 27

That the Commonwealth Government provide a prospective one-off grant of $10,000 to former child migrants wishing to return permanently to the United Kingdom or Malta who can prove that they will permanently relocate in those countries.

Government response

The government is unable to support this recommendation as it poses considerable practical difficulties in terms of establishing proof of permanent relocation and ensuring that the grant is used for its intended purpose. However, should a former child migrant wish to return to the UK or Malta to live permanently, they may be able to do so through the proposed Australian travel fund.

Implementation

4.37 DIAC advised:

> The Australian Government did not agree with this recommendation. However, eligible former child migrants were able to travel for family reunification in the UK or Malta with support from the Australian Travel Fund.[15]

4.38 The Committee did not further consider the recommendation.

Recommendation 28

That the Commonwealth and State Governments widely publicise the availability of remedial education services and associated adult education courses to child migrants and child migrant organisations.

Government response

The government supports this recommendation and will refer the recommendation through the Ministerial Council for Employment, Education, Training and Youth Affairs for the States and Territories to act upon.

Implementation

4.39 The Committee received no evidence to indicate that this matter was referred to the Ministerial Council for Employment, Education, Training and Youth Affairs.

4.40 Only two States commented directly on this recommendation, with both responses indicating that former child migrants are not specifically targeted by advertising for the remedial or adult education services. South Australia advised:

15 *Submission 27*, p. 7.

> The South Australian Government widely promotes supportive educational services so that all citizens who may require assistance are well informed of programs available. The primary Australian support and advocacy service, the Child Migrant Trust, are aware of service provision of the Government and non-government services available in South Australia. Within the Department for Families and Communities, Families SA provides services for individuals who are affected by child migrant adoptions through Adoptions and Family Information Service and for those in State care, the Post Care Service provides information, advocacy and support to meet identified needs, including education.[16]

4.41 The Western Australian Department for Child Protection advised:

> A range of adult education courses, including literacy and numeracy are available in Western Australia and are publicised on the internet and in print media.[17]

4.42 The Committee notes that the Commonwealth and State government responses to recommendations 25 to 28 of the *Forgotten Australians* report addressed the issue of recognising care leavers more generally in the funding and development of health, housing, aged care and education programs. This issue is discussed in Chapter 3, 'Delivery of services'.

Recommendation 29

That the Commonwealth Government urge the Attorney-General of Western Australia to urgently review the recommendations of the Law Reform Commission of Western Australia Report on Limitation and Notice of Actions with a view to bringing the Western Australian law into line with other Australian jurisdictions.

Government response

The government supports this recommendation in principle. The Attorney-General will send a copy of the Senate Committee's report to the Attorney General of Western Australia. However any change to Western Australia limitation law is a matter for Western Australia.

Implementation

4.43 The Committee made this recommendation on the basis that the law in that State did not allow for extensions to limitations periods for the bringing of civil actions related to allegations of historical sexual abuse.[18]

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16 *Submission 30*, p. 6.

17 *Submission 11*, p. 9.

18 *Lost Innocents*, pp 221-223.

4.44 The Western Australian Department for Child protection advised:

> The Western Australian Department for Child Protection concurs with the views previously expressed by this Department…that any retrospective change would need to be treated with considerable caution both because of its effect on the general principles against retrospective legislation and its effect on individual cases.
>
> The *Limitation Act 1935* does not give discretion to the Courts to extend the limitation period for personal injury (other than asbestos disease type cases). Case law such as the decision in *Bennett v Minister for Community Welfare (1993) 176 CLR 408* may, however, allow certain cases to successfully be brought after the expiration of the limitation period for the primary claim on the basis that a common law duty of care is owed by the guardian to the ward in his/her care to obtain independent legal advice on proper instruction in relation to potential actions for damages arising from injuries occurring while the ward was in the guardian's care, and advice that the action might become statute barred. The common law duty is breached by failure on the part of the guardian to obtain that legal advice, and a secondary cause of action, will arise on the expiration of the limitation period for the primary claim. The scope and duration of this secondary cause of action is yet to be tested in the Courts.
>
> Western Australia has in recent years undertaken reviews of limitations law through the Law Reform Commission leading up to the enactment of the *Limitations Act 2005*. The Act makes specific provision for limitations periods applicable to children: Part 3 allowing for the extension of limitation periods beyond 3 years upon application to the Court in certain circumstances. The legislature did not make special provision in the *Limitations Act 2005* for an extension of the limitations period for historical cases of institutional child abuse.
>
> …
>
> The Department is of the view that the implementation of the Redress Western Australia scheme provides a suitable alternative to victims without the need for further retrospective legislative amendments to the *Limitation Act 1935* or the *Limitation Act 2005*.[19]

4.45 The Committee does not consider the response of the Western Australian Department for Child Protection to squarely address the intent or spirit of the Committee's original recommendation. The Committee does not expect that potential cause of action identified in Bennett, as yet untested in terms of scope and duration, offers sufficient certainty for potential claimants. Given the potential financial and emotional consequences of pursuing an unsuccessful claim on this basis, this cause of action does not appear to the Committee to be an adequate alternative to the reform of the State's limitation act to allow judicial discretion to extend the limitation period for matters involving the sexual abuse of children.

19 *Submission 11*, pp 9-10.

4.46 Equally, the Committee does not consider the availability of the Western Australian redress scheme as representing an alternative to civil claims where any such claim is in part or wholly motivated by a desire to 'see justice done'. The suggestion that to allow the bringing of actions in cases involving the sexual abuse of children is a matter of compensation alone is to fundamentally misapprehend the nature and effect of such offences, as well as the suffering of its victims.

4.47 State statutes of limitation were also in addressed in recommendation 3 of the *Forgotten Australians* report. This recommendation is considered in Chapter 5.

Recommendation 30

That the Commonwealth Government issue a formal statement acknowledging that its predecessors' promotion of the Child Migration schemes, that resulted in the removal of so many British and Maltese children to Australia, was wrong; and that the statement express deep sorrow and regret for the psychological, social and economic harm caused to the children, and the hurt and distress suffered by the children, at the hands of those who were in charge of them, particularly the children who were victims of abuse and assault.

Government Response

The government regrets the injustices and suffering that some child migrants may have experienced as a result of past practices in relation to child migration. The government supports the Committee's emphasis on moving forward positively to concentrate on improving support and assistance for those former child migrants who may need or want such services, as noted throughout the recommendations.

Implementation

4.48 The implementation of this recommendation is discussed in Chapter 2.

Recommendation 31

That all State Governments and receiving agencies, that have not already done so, issue formal statements similar to those issued by the Western Australian and Queensland Governments and the Catholic Church and associated religious orders to former child migrants and their families for their respective roles in the child migration schemes.

Government response

The Commonwealth government urges State governments and receiving agencies to consider the importance of this recommendation, in recognition of the hurt and distress that may have been experienced by some former child migrants as a result of former migration and institutional practices.

Implementation

4.49 The implementation of this recommendation is discussed in Chapter 2.

Recommendation 32

That the Commonwealth and State Governments, in conjunction with the receiving agencies, provide funding for the erection of a suitable memorial or memorials commemorating former child migrants, and that the appropriate form and location(s) of such a memorial or memorials be determined by consulting widely with former child migrants and their representative organisations.

Government response

The government supports the concept of a memorial(s) to former child migrants in commemorating the contribution child migrants have made to Australia. The Commonwealth will contribute up to a total of $100,000 towards any suitable proposals for memorials initiated by State Governments in 2002-03. This funding would be distributed equally amongst those State Governments intending to establish a memorial to child migrants, and it is envisaged that those governments would seek to involve child migrants and relevant receiving agencies in determining the form and location of any such memorial.

Implementation

4.50 DIAC submitted that the Australian government had committed $100 000 in total to the cost of erecting memorials, divided equally amongst the six States that received child migrants. The six memorials had been completed at:

- Australian National Maritime Museum, New South Wales (23 March 2006);
- St Joseph's Home, Neerkol, Rockhampton, Queensland (5 August 2003). Queensland advised that it had also established a number of other reconciliation and memorial projects relevant to care leavers, which are discussed in Chapter 5 under the consideration of *Forgotten Australians* recommendation 34;
- Migration Museum, South Australia (18 November 2005). The Catholic Church contributed to the statue, which was erected in the grounds of the museum. South Australia advised that it had also dedicated a plaque to British Child Migrants at the museum in February 2001;[20]
- Launceston Museum and Art Gallery (4 October 2005) and Hobart's International Wall of Friendship, Tasmania (5 October 2005);
- Immigration Museum, Victoria (28 September 2006); and

20 *Submission 30*, p. 6.

- Maritime Museum, Western Australia (10 December 2004).
- CBERS Consultancy advised that it had participated in the development of the Western Australian memorial to former child migrants:

> The Western Australian child migrant memorial, unveiled in 2004, was the product of wide consultation with former child migrants, undertaken by the Department for Community Development, and largely facilitated through the CBERS newsletter. The newsletter, which is posted to approximately 450 ex-residents and a further 400 agencies and service providers in Australia and overseas, provided progress reports on the memorial project, and gave former child migrants an opportunity to participate in the planning process.[21]

Recommendation 33

That the Commonwealth Government support and promote international initiatives that facilitate the sharing of professional best practice, and that ensure uniformity of protocols relating to work with former child migrants and their families.

Government response

The government agrees that international initiatives which facilitate the sharing of professional best practice and uniformity of protocols are important. For example, this is already being done through the National Archives' approach to the National Archives of Canada (see Recommendation 12) on archival protocols and procedures, as recommended by the Committee.

Implementation

4.51 The Committee received no evidence on this matter and did not further consider the recommendation.

21 *Submission 3*, p. 47.

CHAPTER 5

FORGOTTEN AUSTRALIANS

5.1 This chapter provides a complete listing of the recommendations of the *Forgotten Australians* report and the government responses. Recommendations that were not considered in chapters 2 and 3 are also addressed in this chapter.

5.2 Many of the recommendations set out below did not attract extensive comment or evidence through the course of the inquiry. There are a number of reasons that this may be so:

- the specific issue has been addressed or is for other reasons less relevant than at the time of the previous inquiry;
- the specific issue is a subset of a more general recommendation that was commented on; or
- the recommendation was rejected by the government and the relevant issues are substantially unchanged since the time of the original inquiry.

5.3 As noted in Chapter 2, the Commonwealth government has expressed a commitment to review the responses to the *Forgotten Australians* report.

Statements of acknowledgment and apology

Recommendation 1

That the Commonwealth Government issue a formal statement acknowledging, on behalf of the nation, the hurt and distress suffered by many children in institutional care, particularly the children who were victims of abuse and assault; and apologising for the harm caused to these children.

Government response

The Australian Government has great sympathy for those children who suffered hurt and distress in institutional care. While it would not be appropriate for the Australian Government to issue an apology for a matter for which it does not have responsibility, the Government expresses its sincere regret that these children were placed in situations where they did not receive the care they deserved. The Government appreciates that many of these unfortunate Australians and their families continue to experience the serious personal consequences of their experiences of abuse, assault and abandonment.

The Government urges state, territory and local governments, churches, institutions and community organisations to acknowledge their responsibilities and to take action, where appropriate, to alleviate the suffering of those who were in their care. In

particular, the Government urges a collaborative approach to assistance, through improved information access as well as practical support for care leavers.

Implementation

5.4 The implementation of this recommendation is addressed in Chapter 2.

Recommendation 2

That all State Governments and Churches and agencies, that have not already done so, issue formal statements acknowledging their role in the administration of institutional care arrangements; and apologising for the physical, psychological and social harm caused to the children, and the hurt and distress suffered by the children at the hands of those who were in charge of them, particularly the children who were victims of abuse and assault.

Government response

This is a matter for state and territory governments, churches and agencies to consider.

Implementation

5.5 The implementation of this recommendation is addressed in Chapter 2.

Addressing legal barriers

Recommendation 3

That State Governments review the effectiveness of the South Australian law and consider amending their own statutes of limitation legislation to achieve the positive outcomes for conducting legal proceedings that have resulted from the amendments in the South Australian jurisdiction.

Government response

This is a matter for state and territory governments to consider.

Implementation

5.6 Two States offered responses to this recommendation, noting that limitations of the type that applied in South Australia before the passage of the act in question did not apply in those jurisdictions.

5.7 New South Wales advised:

> The purpose of the *Criminal Law Consolidation (Abolition of Time Limit for Prosecution of Certain Sexual Offences) Amendment Act 2003* (SA) was to abolish a three year time limit that applied to sexual crimes committed between 1952 and 1982. There are no time limits on indictable sexual

> offences in NSW. Therefore, the application of the South Australian law in NSW does not seem appropriate.[1]

5.8 Western Australia advised:

> The South Australian law referred to in the recommendation is in regard to the statute of limitation in regard to criminal matters. In Western Australia there is no limitation period for the prosecution of serious criminal matters.
>
> As there is no limitation period for the prosecution of serious criminal matters in Western Australia, the recommendation does not present an issue for this State.[2]

5.9 The Committee is not aware that any similar restrictions on the commencement of criminal proceedings for sexual crimes apply in the other States of Australia.

5.10 The Committee did not further consider this recommendation

Recommendation 4

That in recognising the difficulty that applicants have in taking civil action against unincorporated religious or charitable organisations, the Government examine whether it would be either an appropriate or a feasible incentive to incorporation, to make the availability of federal tax concessions to charitable, religious and not-for-profit organisations dependent on, or alternatively linked to, them being incorporated under the corporations act or under State incorporated associations statutes.

Government response

The Government does not support this recommendation. The Australian Government recognises that the requirement for charities to be incorporated, as a condition for receiving tax concessions, may be desirable in some cases; however, the Government considers that such a requirement would not be feasible on administration or equity grounds. In regards to charities, the Australian Government has already taken steps to safeguard against the potential abuse of the tax status of charities and has announced that it will provide for greater scrutiny of the taxation concessions available to charities. In addition, the Australian Taxation Office maintains a compliance program under which organisations' charitable status can be reviewed.

Compulsory incorporation of charities as a precondition to granting tax concessions will add significant compliance and financial costs to the sector as a whole. For example, not-for-profit organisations may need to consider maintaining a constitution, appointing a board of directors, holding annual general meetings and

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1 *Submission 24*, p. 1.

2 *Submission 11*, p. 2.

hiring a lawyer and an accountant to meet the requirements of incorporation. These requirements can impose prohibitive costs on smaller charities (such as locally based community organisations), which currently do not undertake activities that may warrant incorporation.

Confining tax concessions to incorporated not-for-profit organisations may draw public criticism that the Government's tax concessions favour larger not-for-profit organisations at the expense of the smaller ones. Furthermore, such a requirement may result in reduced levels of charitable activity across the community and community wellbeing more generally. In that regard, compulsory incorporation may also create a distortion in the sector by favouring those organisations that are sufficiently large or have the capacity to justify incorporation.

Placing further restrictions on the sector by using a tax policy instrument to achieve a non-tax policy outcome is likely to result in unintended consequences that would be difficult to address. Other non-tax options, such as requiring that certain governance arrangements be observed by charitable organisations of a certain size, may offer a more appropriately targeted means to achieve the desired outcome.

Implementation

5.11 The Committee's recommendation that the government examine the feasibility of linking federal tax concessions to requirements for religious and charitable organisations to be incorporated was aimed at ensuring that such bodies are legal entities able to be held liable for crimes committed by their employees. A current precedent of Australian law, known as the Ellis defence, dictates that entities such as the Catholic church, which is unincorporated, cannot be the subject of civil actions for the abuses of church workers. Ms Angela Sdrinis explained:

> The Ellis defence…is basically that in these historical cases of sex crimes and, by analogy, cases involving physical abuse and deprivation in an historical sense, the Catholic Church cannot be sued because there is no legal entity that can be held liable for those atrocities—and I will call them 'atrocities'.[3]

5.12 Ms Sdrinis identified the Catholic Church, the Uniting Church and the Salvation Army as entities that, in her direct experience, have relied and continue to rely on the Ellis defence to avoid civil actions involving claims of sexual abuse of children. In contrast, other religious groups, notably Anglicare and the Lutheran Church were incorporated and thus could be held liable for acts of their employees.[4]

5.13 Ms Sdrinis compared the unwillingness of some churches to remove the 'corporate veil' to other cases of corporate avoidance of liability and responsibility, such as the James Hardie company's attempts to compensate victims of asbestos.

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3 Private capacity, *Proof Committee Hansard*, 30 March 2009, p. 2.

4 *Proof Committee Hansard*, 30 March 2009, p. 5.

Noting that change was unlikely without government action, Ms Sdrinis urged the Committee to pursue this issue as a priority.[5]

5.14 The Alliance for Forgotten Australians supported a continued effort to implement this recommendation:

> AFA supports conditionality of tax concessions, particularly in the light of the legal manoeuvring by some religious bodies to avoid responsibility for child abuse within their systems. Organisations funded by Australian taxpayers must be fully and openly accountable to those taxpayers for their actions.[6]

5.15 In relation to the government's response to the Committee's recommendation, the Committee acknowledges the concerns about sector compliance costs, particularly for smaller not-for-profit entities. Conversely, it is unclear precisely what the 'unintended consequences' are that the response indicates would be likely to flow from compulsory incorporation of charitable organisations. Regardless, as noted in the response, such issues could well be addressed by the application of thresholds determined by the size of entities, or by the development of governance requirements that would not impose undue compliance costs.

5.16 The Committee is not aware that the Commonwealth has made any further consideration of non-tax options for ensuring that religious and charitable organisations may in appropriate cases be held liable for the criminal actions of their workers.

Recommendation 5

That the Commonwealth Government examine the desirability and feasibility of introducing whistleblower legislation for the not-for-profit religious and charitable sectors.

Government response

The Government supports this recommendation. In its examination of the desirability and viability of introducing whistleblower legislation to provide protection for those working in the not-for-profit religious and charitable sectors, the Australian Government will need to explore a number of issues, including the extent to which it is possible, practical and appropriate for the Australian Government to legislate in this area.

5 *Proof Committee Hansard*, 30 March 2009, p. 3.

6 *Submission 10*, p. 6.

Implementation

5.17 The Department of Families, Housing, Communities and Indigenous Affairs (FaHCSIA) advised that it was not aware of any further action by the Commonwealth on this recommendation.[7]

National reparation fund

Recommendation 6

That the Commonwealth Government establish and manage a national reparations fund for victims of institutional abuse in institutions and out-of-home care settings and that:

- **the scheme be funded by contributions from the Commonwealth and State Governments and the Churches and agencies proportionately;**
- **the Commonwealth have regard to the schemes already in operation in Canada, Ireland and Tasmania in the design and implementation of the above scheme;**
- **a board be established to administer the scheme, consider claims and award monetary compensation;**
- **the board, in determining claims, be satisfied that there was a 'reasonable likelihood' that the abuse occurred;**
- **the board should have regard to whether legal redress has been pursued;**
- **the processes established in assessing claims be non-adversarial and informal; and**
- **compensation be provided for individuals who have suffered physical, sexual or emotional abuse while residing in these institutions or out-of-home care settings.**

Government response

The Government does not support this recommendation. The Government deeply regrets the pain and suffering experienced by children in institutional care but is of the view that all reparations for victims rests with those who managed or funded the institutions, namely state and territory governments, charitable organisations and churches. It is for them to consider whether compensation is appropriate and how it should be administered, taking into account the situation of people who have moved interstate.

Implementation

5.18 The implementation of this recommendation is addressed in Chapter 2.

7 *Submission 4*, p. 7.

Internal Church redress processes

Recommendation 7

That all internal Church and agency-related processes for handling abuse allegations ensure that:

- **informal, reconciliation-type processes be available whereby complainants can meet with Church officials to discuss complaints and resolve grievances without recourses to more formal processes, the aim being to promote reconciliation and healing;**
- **where possible, there be independent input into the appointment of key personnel operating the schemes;**
- **a full range of support and other services be offered as part of compensation/reparation packages, including monetary compensation;**
- **terms of settlement do not impose confidentiality clauses on complainants;**
- **internal review procedures be improved, including the appointment of external appointees independent of the respective Church or agency to conduct reviews; and**
- **information on complaints procedures is widely disseminated, including on Churches' websites.**

Government response

This is a matter for churches and agencies to consider. The Australian Government urges churches and agencies to respond positively and compassionately.

Implementation

5.19 The implementation of this recommendation is addressed in Chapter 2.

Recommendation 8

That the Commonwealth establish an external complaints review mechanism, such as a national commissioner for children and young people who would have the power to:

- **investigate and mediate complaints received by complainants dissatisfied with Church processes with the relevant Church authority;**
- **review the operations of Church sponsored complaints mechanisms to enhance transparency and accountability;**
- **report annually to the Parliament on the operation of the Churches' complaints schemes, including data on the number and nature of complaints; and**

- **publicise the existence of Church-sponsored complaints mechanisms widely throughout the community.**

Government response

The Australian Government does not support this recommendation. A Children's Commission or similar office may be appropriate for state and territory governments to establish, given the primary responsibility the states and territories have for child welfare, and that decision rests with them. NSW, Queensland and Tasmania have Children's Commissioners, and they are regarded as performing valuable functions. The ACT Government also plans to have a Children's Commissioner. However, the Australian Government does not believe there would be any benefit in having a National Children's Commissioner, as this would duplicate processes already in place. The Australian Government does not seek to influence state and territory governments regarding the establishment of state or territory children's commissions. This is a decision for each state or territory government.

Implementation

5.20 In the *Forgotten Australians* report the Committee concluded that there was a need for whistleblower legislation relating to religious and charitable organisations. This conclusion was based other the view that people working in religious and charitable environments may be more vulnerable to than private or public sector employees due to the nature of such organisations and higher levels of financial and employment dependence.[8]

5.21 A number of submitters and witnesses indicated their support for the creation of a national commissioner for children, including the Benevolent Society and Origins Inc.[9] The AFA also supported this recommendation, however:

> …its role would need to be carefully defined if responsibility for past wrongs and for adult survivors is to be included in its mandate. The roles of existing State and Territory Commissioners with respect to Forgotten Australians, and the relationship of those Commissioners with a national office, would also need careful consideration.[10]

5.22 New South Wales also expressed concern that the creation of such a position could lead to duplication and confusion, given the number of bodies in place that are able to deal with complaints and allegations of abuse. These include:

- the NSW Commissioner for Children and Young People;
- the Office of the Children's Guardian; and

8 *Forgotten Australians,* p. 210.

9 *Submission 6*, p. 5; *Submission 2*, p. 13.

10 *Submission 10,* p. 9.

- the NSW Ombudsman.[11]

5.23 FaHCSIA provided an update to the previous government response, outlining a number of executive and administrative innovations in the area of child welfare and protection. This includes:

- appointment of a Parliamentary Secretary for Disabilities and Children's Services who has a 'key role in delivering children's programs and advising on children's issues, including child protection';
- undertaking development of a National Child Protection Framework to help prevent abuse and neglect of all children and avoid the harm inflicted on many children while in care; and
- establishment of an Office of Work and Family within the Department of Prime Minister and Cabinet to give the Prime Minister direct involvement in the formulation of policies that provide for the wellbeing of children.

5.24 Further, FaHCSIA advised that the current government is currently examining the merits of a federal children's commissioner.[12]

Recommendation 9

That the Churches and agencies publish comprehensive data on all abuse complaints received to date, and then subsequently on an annual basis, and that this information include:

- **numbers of complainants and type of complaints received;**
- **numbers of Church/agency personnel involved in complaint allegations; and**
- **amounts of compensation paid to complainants.**

Government response

This is a matter for state and territory governments, churches and agencies to consider. Privacy considerations would be paramount.

Recommendation 10

That information on the above matters be provided annually (including any reasons for non-compliance) to the national commissioner for publication in a consolidated form in the commissioner's annual report.

11 *Submission 24*, p. 3.

12 *Submission 4*, p. 9.

Government response

See response to Recommendations 8 and 9. However, national consolidation of data is possible through existing departmental mechanisms. The Australian Government will discuss consolidation processes with state and territory governments, churches and agencies if they choose to establish data collection mechanisms.

Implementation

5.25 FaHCSIA advised that it was not aware of any further action by the Commonwealth government on this issue.

5.26 A number of groups commented that there had been no progress on the comprehensive publication of data on abuse complaints by churches and agencies. Broken Rites submitted:

> No progress has been made in respect of this recommendation. Essentially, the churches and religious organisation focus upon keeping as much information as possible away form public scrutiny. This has been their position with respect to internal, civil and criminal cases.[13]

5.27 Mrs Gloria Lovely, Historical Abuse Network (HAN), advised:

> HAN believes that the churches, as significant institutions in society, should have to report about the complaints, internal processes and outcomes annually to an appropriate statutory external body. There has been no progress on these matters.[14]

5.28 New South Wales advised that the NSW Ombudsman publishes information in its annual report on allegations of reportable conduct from government and non-government agencies involved in out-of-home care and child protection.[15]

5.29 South Australian also annually reports data on abuse in care allegations in its Review of Government Service Provision Report.[16]

5.30 Western Australia responded that this recommendation was a matter for the churches and non-government agencies that provided institutional care.[17]

5.31 The Committee is not aware that the Commonwealth government has discussed consolidation processes with any State and Territory governments or churches and agencies that have chosen 'to establish data collection mechanisms'.

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13 *Submission 14*, p. 5.

14 *Proof Committee Hansard*, 6 April 2009, p. 12.

15 *Submission 24*, p. 4.

16 *Submission 30*, p. 4.

17 *Submission 11*, p. 5.

Royal Commission

Recommendation 11

That the Commonwealth Government seek a means to require all charitable and church-run institutions and out-of-home care facilities to open their files and premises and provide full cooperation to authorities to investigate the nature and extent within these institutions of criminal physical assault, including assault leading to death, and criminal sexual assault, and to establish and report on concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant authorities, charities and/or Church organisations;

And if the requisite full cooperation is not received, and failing full access and investigation as required above being commenced within six months of this Report's tabling, that the Commonwealth Government then, following consultation with State and Territory governments, consider establishing a Royal Commission into State, charitable, and church-run institutions and out-of-home care during the last century, provided that the Royal Commission:

- **be of a short duration not exceeding 18 months, and be designed to bring closure to this issue, as far as that is possible; and**
- **be narrowly conceived so as to focus within these institutions, on**
- **the nature and extent of criminal physical assault of children and young persons, including assault leading to death;**
- **criminal sexual assault of children and young persons;**
- **and any concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant State authorities, charities and/or Church organisations.**

Government response

The Australian Government urges state governments, charitable organisations and churches that managed or funded institutions to cooperate fully with authorities to investigate the nature and extent of criminal offences and to work in good faith to address outstanding issues.

The Australian Government considers that a royal commission into state government, charitable and church-run institutions is not appropriate. This inquiry has shown that there are a number of practical steps that can be taken to redress the experiences of children in institutional care.

The offences dealt with under Recommendation 11 are offences under state/territory law. Any investigation of the nominated institutions is, therefore, a matter for state and territory governments.

Implementation

5.32 The implementation of this recommendation is addressed in Chapter 2, 'Judicial reviews and Royal Commission'.

Location, preservation, recording and access to records

Recommendation 12

That government and non-government agencies holding records relating to care leavers, implement and fund, as a matter of priority, programs to find, identify and preserve records including photographs and other memorabilia.

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Recommendation 13

That all government and non-government agencies immediately cease the practice of destroying records relating to those who have been in care.

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Recommendation 14

That all State Governments and non-government agencies, which have not already done so:

- **provide dedicated services and officers to assist care leavers in locating and accessing records, both government and non-government; and**
- **compile directories to assist in the locating and accessing of records relating to care leavers and the institutions into which they had been placed.**

Government response

This is a matter for state and territory governments, churches and agencies to consider.

Recommendation 15

That a dedicated information and search service be established in each State and Territory to:

- **develop a complete register of all records held by government and non-government agencies;**
- **provide assistance to care leavers to locate and access records;**
- **provide advocacy and mediation services to care leavers accessing records; and**
- **ensure that all agencies holding records identify, preserve and make available all surviving records relating to care leavers and the institutions that housed them.**

Government response

This is a matter for state and territory governments to consider.

Recommendation 16

That all government and non-government agencies agree on access guidelines for the records of all care leavers and that the guidelines incorporate the following:

- **the right of every care leaver, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same;**
- **the right of every care leaver to undertake records searches, to be provided with records and the copying of records free of charge;**
- **the commitment to a maximum time period, agreed by the agencies, for the processing of applications for viewing records; and**
- **the commitment to the flexible and compassionate interpretation of privacy legislation to allow a care leaver to identify their family and background.**

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Recommendation 17

That all agencies, both government and non-government, which provide access to records for care leavers, ensure adequate support and counselling services are provided at the time of viewing records, and if required, subsequent to the viewing of records; and that funding for independent counselling services be provided for those care leavers who do not wish to access services provided by a former care agency.

Government response

The Australian Government notes that counselling services are already funded and widely available, including to care leavers, and would be appropriately used in these circumstances. The Australian Government has provided one-off funding to the Care Leavers of Australia Network (CLAN) of $100,000 for counselling support. In the longer term, this is the responsibility of state and territory governments, churches and agencies.

Recommendation 18

That the Commonwealth request the Council of Australian Governments to review all Federal and State and Territory Freedom of Information regimes to ensure that they do not hinder access by care leavers to information about their childhoods and families.

Government response

The Australian Attorney-General will raise this proposal with his state and territory counterparts.

Implementation

5.33 The implementation of recommendations 12 to 18 is addressed in Chapter 3, 'Identification and access to records'.

Advocacy and support groups

Recommendation 19

That the Commonwealth fund a national conference of service providers and advocacy and support groups with the aim being to establish a professional national support and advocacy body for care leavers; and that this body be funded by the Commonwealth and State Governments and the Churches and agencies.

Government response

The Australian Government supports in principle the proposal for a conference of service providers, but not with a pre-determined outcome. Such a conference could identify ongoing needs of care leavers and make recommendations about the most effective ways of meeting those needs. The Australian Government is prepared to work with states and territories to convene a meeting of service providers and will discuss cost-sharing arrangements with states and territories. The Government cannot commit to funding of any outcomes in advance.

The Australian Government acknowledges the important role played by service providers and advocacy and support groups for care leavers. The Government notes

that it already provides significant funding for counselling and support in the areas of child abuse and/or sexual assault.

The Australian Government considers that the establishment of any national support and advocacy body for care leavers would need to ensure that it does not duplicate services already available in some states. A state-based approach to providing support and advocacy is beneficial as it provides care leavers with the opportunity to talk to others with similar experiences and with counsellors who are aware of the specific experiences of children in those locations.

If there were seen to be a role for a national body, a fair and transparent selection process would be appropriate.

Recommendation 20

That the Commonwealth and State Governments and Churches and agencies provide on-going funding to CLAN and all advocacy and support groups to enable these groups to maintain and extend their services to victims of institutional abuse, and that the government and non-government sectors widely publicise the availability of services offered by these advocacy and support groups.

Government response

The Australian Government acknowledges the work CLAN has done in bringing together the stories of the individuals and families who suffered abuse and neglect in institutions. The Government commends CLAN for effectively reshaping the country's history by drawing the nation's attention to these tragic events. It is now important for governments, churches and agencies to take responsibility for delivering positive and concrete responses, and it remains to be seen what role CLAN and other support groups now have to play in encouraging them to do so.

The Australian Government has committed $100,000 to CLAN as a one-off grant for the provision of counselling services to care leavers. The definition of any ongoing role for CLAN, or another national support body, would be expected to emerge from the conference proposed in Recommendation 19. Appropriate structures and sources of funding would be determined following discussion of recommendations from that conference. There are other care leaver support bodies, specifically providing services in some states to people who were in care in each of those states.

While ongoing support for care leavers is primarily a role for state and territory governments, churches and agencies, the Australian Government will commit additional funding of $100,000 to assist care leavers through support groups, to be determined in conjunction with the planning and holding of the national conference.

Implementation

5.34 The implementation of recommendations 19 and 20 is addressed in Chapter 3, 'Role and operation of support groups'.

Provision of support services

Recommendation 21

That all State Governments, Churches and agencies provide a comprehensive range of support services and assistance to care leavers and their families.

Government response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports a process that is based on an assessment of need and an identification of gaps in existing services. These matters could be further discussed at appropriate Ministerial Councils.

Recommendation 22

That all State Government funded services for care leavers be available to all care leavers in the respective State, irrespective of where the care leaver was institutionalised; and that funding provisions for this arrangement be arranged through the Community and Disability Services Ministerial Council.

Government response

This is a matter for state and territory governments. The Australian Government supports the recommendation in principle and urges state and territory governments to continue to ensure access to services is provided for care leavers who have moved interstate.

Counselling services

Recommendation 23

That all State Governments, Churches and agencies fund counselling services for care leavers and their families, and that those currently providing counselling services maintain and, where possible, expand their services including to regional areas. The counselling services should include:

- **the extension of specialist counselling services that address the particular needs of care leavers;**
- **their provision to clients on a long-term or as required basis; and**
- **the provision of external counselling as an option.**

Government Response

This is a matter for state and territory governments, churches and agencies to consider. The Australian Government strongly supports the proposal in principle.

Implementation

5.35 The implementation of recommendations 21 to 23 is addressed in Chapter 3, 'Delivery of services'.

Recommendation 24

That specialist higher education courses be available for the training of health professionals in areas related to the particular psychological and psychiatric effects of institutional abuse.

Government response

Universities are self-accrediting institutions that decide the courses they will offer, within broad profiles agreed with the Australian Government. Under the new funding framework that commenced in 2005, there will be Funding Agreements with each University, specifying the number of places across the discipline mix to be supported by the Australian Government. In reaching these agreements, every year the Department of Education, Science and Training will meet with each University to discuss their strategic directions and plans for course offerings. This would be the stage at which the possibility of offering this training might be discussed, assuming that they are to be included in a health related degree. However, Universities decide how the funds they receive from the Government and the tuition fees they receive from their students will be used internally, as they are in the best position to allocate funds in a way that furthers their strategic direction in the provision of higher education.

The Australian Government will ensure that the Australian Vice-Chancellor's Committee is aware of the recommendations of the Senate Community Affairs Committee in this regard.

Other higher education providers are autonomous institutions, which determine their own teaching arrangements and course curricula.

The Medical Specialist Training Steering Committee, commissioned by the Australian Health Ministers' Advisory Council, is currently looking at providing training for medical specialists, including psychiatrists, which is more applicable to the range of health care settings within which they will practice as professionals. This work is being done in conjunction with the Royal Australasian and New Zealand College of Psychiatrists who are responsible for the development of training programme content. It will ensure that training provided to the future psychiatry workforce is more applicable to the needs of the community, including those members of the community who present to a range of community based and acute settings for psychiatric treatment.

Implementation

5.36 FaHCSIA advised that it was not aware of any further action by the Commonwealth government in relation to this recommendation.

5.37 The AFA observed that there was no evidence that the government had acted on its commitment to ensure that the Australian Vice-Chancellor's Committee was aware of the Committee's recommendation.[18]

5.38 New South Wales advised:

> While this is primarily a Commonwealth responsibility, this recommendation is supported in principle. NSW notes that a workable outcome would be to ensure such elements were included as part of relevant mainstream educational streams.[19]

5.39 Western Australian offered in-principle support for the recommendation, although also noted that universities and other education providers are autonomous bodies that wholly determine course content.[20]

Health care, housing and aged care programs

Recommendation 25

That the Commonwealth and State Governments in providing funding for health care and in the development of health prevention programs, especially mental health, depression, suicide prevention and drug and alcohol prevention programs, recognise and cater for the health needs and requirements of care leavers.

Government response

The Australian Government, through the Department of Health and Ageing, funds a range of health care, health promotion and support programs, which are accessible to all Australians. While not targeted at care leavers, these programs are accessible to this group. These include the National Suicide Prevention Strategy, National Mental Health Strategy and the Better Outcomes in Mental Health Care Initiative.

Recommendation 26

That the Department of Health and Ageing fund a pilot program under the Aged Care Innovative Pool to test innovative models of aged care services focussing on the specific needs of care leavers.

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18 *Submission 10*, p. 16.

19 *Submission 24*, p. 9.

20 *Submission 11*, p. 11.

Government response

The Australian Government, through the Department of Health and Ageing, acknowledges the potential scope to develop a pilot proposal under the Aged Care Innovative Pool that would aim to test innovative models of aged care services for older people with specific needs, such as care leavers, whose care needs are not adequately met through existing aged care services. Consistent with Program Guidelines that specify the arrangements for developing innovative pool pilot proposals, stakeholder agencies can develop an outline of a proposed model and project parameters and make contact with the Department. More information about the Innovative Pool, including program guidelines, is available from the Department of Health and Ageing's website.

Recommendation 27

That the Home and Community Care program recognise the particular needs of care leavers; and that information about the program be widely disseminated to care leaver support and advocacy groups in all States.

Government response

This is a matter for state and territory governments. The Australian Government, through the Department of Health and Ageing, provides funding for the Home and Community Care (HACC) program, which is accessible to all Australians. The dissemination of information about state and regional specific programs funded under the HACC program is a state and territory government responsibility.

Recommendation 28

That the Supported Accommodation Assistance Program recognise the particular needs of care leavers; and that:

- **data on the usage of the Program by care leavers be collected; and**
- **information about the Program be widely disseminated to care leaver support and advocacy groups in all States.**

Government response

The Government supports this recommendation in principle. Data collection on the use of the Supported Accommodation Assistance Program (SAAP) by care leavers is currently being investigated by the SAAP program's Information Sub Committee.

Information on SAAP services may be of interest to care leaver support and advocacy groups, and such information will be made available through the Department of Family and Community Services. However, SAAP is a crisis response program for people who are homeless or about to become homeless. Support groups should familiarise themselves with the range of programs available for this particular client group which aim to prevent them from falling into crisis.

Education

Recommendation 29

That the Commonwealth and State Governments widely publicise the availability of adult literacy and numeracy services and associated adult education courses to care leavers and care leaver support groups.

Government response

The Australian Government supports this recommendation. While funding of Adult and Community Education (ACE) provision is a State and Territory Government responsibility, from 1 July 2005 the Australian Government (through the Department of Education, Science and Training) will provide $1.105 million to Adult Learning Australia (ALA) to undertake activities associated with adult learning. Part of this funding ($730,000) supports the promotion of adult learning, research and other activities. An additional $375,000 is provided to ALA to distribute to the States and Territories for activities associated with Adult Learners' Week.

The Commonwealth Department of Education, Science and Training liaises with State Training Authorities and with peak bodies, such as the Australian Council for Adult Literacy (ACAL) and ALA, and will seek their support to further publicise the availability of adult literacy and numeracy courses and associated education courses to care leavers and care leaver support groups. The Department of Education, Science and Training also funds the Reading Writing Hotline which directs callers to their nearest literacy training provider and will ask ALA to further publicise it.

State and Territory Governments also provide general education courses, which largely consist of literacy and numeracy training. The two Australian Government programmes which focus on literacy and numeracy, the Language, Literacy and Numeracy Programme (LLNP) and the Workplace English Language and Literacy Programme (WELL), target quite specific groups – jobseekers and those in employment respectively – and are not programmes that care givers or care agencies can refer people to. These two programmes are, however, widely publicised through several different methods and are well known throughout the adult and vocational education fields.

Recommendation 30

That State Governments investigate options for alternative entry pathways to higher education courses for ex-residents of institutions and their children.

Government response

This is a matter for state and territory governments to consider.

Implementation

5.40 The implementation of recommendations 25 to 30 is addressed in Chapter 3, 'Delivery of services'.

Data collection

Recommendation 31

That the Commonwealth, in conjunction with the States, develop procedures for the collection of data on people who have been in care on forms that are already used to elicit client information such as Medicare and Centrelink forms and admission forms to prisons, mental health care facilities and aged care facilities.

Government response

The Australian Government will examine what the possibilities are of collecting information on existing forms. Not all situations will be appropriate. Collection of this type of information on Medicare forms is not supported. Access to such information through Medicare forms would infringe the Privacy Act 1988*, as such collection is not a legislated purpose nor covered in the Information Privacy Principle 2 pathway as printed on the Medicare claim form. Further, section 130 of the* Health Insurance Act 1973 *would prevent any such disclosure. The inclusion of specific questions on Centrelink forms would only be appropriate if programs were specifically tailored for, or offered particular services to, care leavers. This recommendation will be revisited if specific programs or services are developed in the future that target care leavers as a distinct group.*

This is a matter for state and territory governments to consider also.

Recommendation 32

That Commonwealth and State programs across a range of social policy areas, including health and aged care and social welfare services generally, explicitly recognise care leavers as a sub-group with specific requirements in the publications and other material disseminated about programs.

Government response

The Australian Government recognises the issues faced by care leavers but does not endorse the recommendation to explicitly recognise care leavers as a sub-group with specific requirements in publications and public information materials. Australian Government departments will consider and address, where appropriate, the special needs of care leavers with regard to information and programs that specifically address the needs and circumstances of that group.

Implementation

5.41 Despite the government's undertaking to examine the possibilities of collecting information on care leavers on existing forms, FaHCSIA advised that it was not aware of any further action by the Commonwealth government in relation to these recommendations.

5.42 On the issue of data collection, Mr John Murray, Foundation Member, Positive Justice Centre, submitted:

> Certainly nothing has progressed with what I consider to be the very important recommendations dealing with data collection. A great deal of very important information could be discovered by Government and NGO agencies collecting data regarding the child welfare experiences of their clients.[21]

5.43 Broken Rites commented that data collection on care leavers was still a worthwhile goal:

> This is a very important recommendation and yet apparently no progress has been made despite the fact that it should not be difficult to make some simple process changes. The benefit from implementing the recommendation is that it should enable various parts of the Australian government to get reasonably accurate data of the cost of various services that are accessed by Forgotten Australians. In view of the high dependency needs of these people in out society, these costs are probably very high. Furthermore, in the present vacuum in terms of data, government has know way of determining whether current services are effective and whether more client-specific services would result in better outcomes for Forgotten Australians.[22]

5.44 In relation to the specific rejection of using Centrelink forms to collect data on care leavers, Miss Eris Harrison, Senior Policy Manager, AFA, observed that there was a circular element to the government response:

> [The government's response was:] 'Why would we collect data when there are no reasons for collecting it, in the sense that there are no targeted services?' That is a circular argument to me…If you do not collect the data, you do not know how badly the services are needed and you do not understand the multiplicity of barriers to economic and social participation that that this group faces.[23]

5.45 Dr Joanna Penglase, Co-founder and Project Officer, CLAN, suggested that other forms could be used to gather such information, such as the Census form.[24]

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21 *Submission 5*, p. 4.

22 *Submission 14*, p. 6.

23 *Proof Committee Hansard*, 30 March 2009, p. 73.

24 *Proof Committee Hansard*, 7 April 2009, p. 49.

5.46 However, Western Australia rejected this recommendation on the basis of privacy concerns and doubts about the efficacy of such an approach:

> The Western Australian Government does not support the identification of people who have been in care on various admission forms and notes that issues of privacy, consent and data comparability would be significant impediments to obtaining meaningful data. It is acknowledged that former residents may be reluctant to identify themselves on service application and admission forms. The purpose of collecting this information, as stated in the Senate Committee's report is to inform policy makers about services and assistance required for care leavers. This information could be obtained through research on specific areas of relevance to former residents.[25]

5.47 A number of submissions also disagreed with recommendation 32 that care leavers be recognised as an explicit sub-group in publications and other material disseminated across a range of policy programs. Origins Inc. advised:

> Origins does not endorse clients being treated as a sub-group. Services to clients should be specific but not discriminatory as in making clients feel lesser than the 'accepted norm'[26]

5.48 The Tasmanian government also rejected this recommendation:

> The number of care leavers in Australia does not warrant the creation of specialised services and to create a sub group in these circumstances would run the risk of care leavers facing further discrimination.
>
> Services offered to care leavers need to be responsive, non-discriminatory and prioritised in terms of those in the highest need, it is felt that in Tasmania appropriate and effective support can be provided to a care leavers [sic] from within existing services.[27]

5.49 Similarly, Western Australia advised:

> Western Australia does not support the recommendation to explicitly recognise care leavers as a sub-group with specific requirements in publications and other materials. Not all care leavers would wish to be specifically recognised as such.[28]

Whole of government approach to program and service delivery

Recommendation 33

That the Commonwealth and the States commit, through the Council of Australian Governments, to implementing a whole of government approach to

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25 *Submission 11*, p. 13.

26 *Submission 2*, p. 25.

27 *Submission 7*, pp 2-3.

28 *Submission 11*, p. 13.

the provision of programs and services for care leavers across policy areas such as health, housing and welfare and community services and other relevant policy areas.

Government response

The Australian Government believes that these issues are worthy of further discussion but does not support referral to COAG. The Australian Government will commit to a whole of government approach through relevant Ministers' Conferences, including the Community Services Ministers and the Health Ministers Councils. Appropriate strategies will be developed for government consideration.

Implementation

5.50 FaHCSIA advised that it was not aware of any further action by the Commonwealth on this recommendation.

5.51 The Committee notes that the coordination of services to care leavers nationally involving all levels of government is a consistent theme across all of the recommendations of the *Forgotten Australians* report, particularly those relating issues to delivery of services, identification and access to records and the role of operation of support groups. These are discussed in Chapter 3.

Recognition through memorials and exhibitions

Recommendation 34

That the Commonwealth and State Governments, in conjunction with the Churches and agencies, provide funding for the erection of suitable memorials commemorating care leavers. Where possible, memorials could take the form of:

- **memorial gardens constructed in conjunction with local councils;**
- **the placement of plaques at the site of former institutions; and/or**
- **the construction of heritage centres on the site of former institutions.**

The Committee further recommends that the appropriate form and location of memorials should be determined after local consultation with care leavers and their support and advocacy groups.

Government response

The Government supports the concept of memorials to commemorate the experiences of children in institutional care as an appropriate way to acknowledge past injustices. The Government will contribute funding of up to a total of $100,000 towards any suitable proposals for memorials initiated by state or territory governments.

Implementation

5.52 As indicated in the government response, the Commonwealth provided $100 000, evenly divided among the States, for the purpose of establishing suitable memorials commemorating care leavers. FaHCSIA advised:

> The Government invited applications from all State and Territory Governments and, in 2007, all six states received $16,666 (GST ex) to assist them establish memorials.[29]

5.53 Mr Golding was critical of the Commonwealth's contribution, which amounted to $16 666.66 per State:

> ...$100,000 for memorials (split mechanically six ways regardless of the number of institutions in each State and the number of residents). These new funds were derisory in the overall context of the Senate Committee [findings]….[30]

5.54 The CMT commended the provision for memorials as 'a bright spot in an otherwise fairly bleak landscape with regard to the implementation of most of the recommendations of *Lost Innocents*:

> Combined Federal and State funding for memorials in each State was generally well received by former child migrants and their families. The launch of each memorial was accompanied by a 'statement of regret', if not a full apology. The Federal Immigration Minister opened the memorial in Victoria; other events were largely managed by State Governments. There is an enduring value of the memorials in terms of heritage issues, and former child migrants having a focus to visit with their children and grandchildren, quite separate from the institution where many experienced appalling childhood abuse.[31]

5.55 The erection of memorials appears to be progressing at variable rates across the States.[32] The AFA provided a summary of progress in relation to funding and consultation over the form and location of memorials:

> Consultation has generally been good, and most States have contributed funds as well, but the overall amount is not large (NSW appears to be the lowest, with roughly $3,334). Tasmania, Queensland, Victoria and South Australia have made good progress, and AFA members in those States are happy with the outcomes. In NSW, consultation has been limited, but CLAN and…[the] Association of Children's Welfare Agencies have been involved through a group they themselves set up. In South Australia, Churches have contributed $12,000 on top of the Government contribution.

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29 *Submission 4*, p. 3.

30 *Submission 16*, p. 4.

31 *Submission 23*, pp 2-3.

32 *Submission 21*, p. 12.

> Progress in some States is very slow, with WA still planning a memorial as part of their Redress program.[33]

5.56 However, the AFA called for the establishment of a national memorial in Canberra, 'reflecting the national ownership of this piece of Australia's history'.

> There are no plans for a national memorial, and AFA would like to see one created in Canberra, reflecting the national ownership of this piece of Australia's history…Any such memorial…contributes towards banishing the widespread ignorance of this important piece of history and bringing the experiences and needs of the survivors to the fore.[34]

New South Wales

5.57 New South Wales advised:

> The Department of Community Services is planning for the establishment of a dedication to people who experienced institutional care as children. It has consulted with care leaver support organisations, including the Care Leavers Australian Network and past providers of institutional care, on the design and location of the dedication. The memorial will be located in the Royal Botanic Gardens in Sydney. The Department is planning for a ceremonial unveiling of the memorial in early 2009.[35]

5.58 Ms Mallet advised that the plans for the care leaver memorial were currently being finalised:

> Arrangements are being confirmed for a memorial to be located in the Royal Botanic Gardens of Sydney. Consideration is being seriously given, in conjunction with important parties that we need to consult with in these matters, including care leavers, to the planning of a healing service in conjunction with a memorial unveiling.[36]

Queensland

5.59 The Queensland government submission outlines a number of reconciliation events and memorial projects for care leavers undertaken in response to the Forde inquiry and the *Forgotten Australians* report:

> December 2004 – launch of a Remembrance statue in the Roma Street forum precinct, Brisbane to commemorate former residents of orphanages and institutions. The memorial was funded by a Community Gaming Benefit Fund grant and developed with the support of the Department of Communities and Brisbane City Council;

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33 *Submission 10*, p. 19.

34 *Submission 10*, pp 19-20.

35 *Submission 24*, p. 13.

36 *Proof Committee Hansard*, 7 April 2009, p. 70.

> September 2004 – commencement of Annual Remembrance Day event during Child Protection Week to acknowledge the experiences of former residents;
>
> 2005 onwards – youth detention memorial project to develop a contemporary sculptural artwork commemorating former residents of detention centres (this project is funded by the Department of Communities and the Commonwealth Government under its response to Recommendation 34 of the *Forgotten Australians* report); and
>
> 2008 – Karrala House (Ipswich) memorial plaque (funded by the Commonwealth Government under its response to recommendation 34 of the *Forgotten Australians* report and supported by the University of Queensland, Ipswich Campus and the Department of Communities).[37]

South Australia

5.60 South Australia advised that Families SA Post Care Services Consumer Reference Group held a public consultation in December 2007 inviting care leavers to contribute to formation of the Forgotten Australians Memorial Working Party (FAMWP). Since that time:

> The FAMWP has met with the Adelaide City Council a number of times to discuss the Artist Brief for this project and the Council has shown the FAMWP the proposed site (Peace Park. Karrawirra; Park 12 on the Adelaide City Council website). The FAMWP has been seeking avenues of financial support for the project. Many Adelaide churches have committed amounts of $1,000 to $4,000 to the project. The total amount is now $44,000 including equal contributions from the Commonwealth and State Governments. The FAMWP has met with Arts SA in September 2008 subsequent to requesting a donation of $50,000. An application for Seed Funding will be made to Arts SA. It is anticipated the memorial will be launched in March 2010.[38]

5.61 In addition, State Records of South Australia hold a permanent free exhibition 'Scabby knees, hopes and dreams: a child's experience of government 1840-1990'. The collection includes a significant display of records and experiences of care leavers in-out-of home and State institutional facilities.[39]

Tasmania

5.62 Tasmania unveiled a memorial rose garden for care leavers at its botanical gardens in November 2008. Ms Alison Jacob, Deputy Secretary, Human Services, Department of Health and Human Services, advised:

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37 *Submission 15*, p. 7.

38 *Submission 30*, p. 11.

39 *Submission 30*, p. 11.

> [This] has been a very successful recognition of the pain and suffering of Forgotten Australians. Certainly, the feedback that we have had is that gesture…of providing that memorial as a contemplative place…has been a very suitable memorial to…[care leavers].[40]

Victoria

5.63 The Committee notes that as part of its 2006 apology to care leavers Victoria committed $30 000 for a permanent memorial 'to be built in consultation with care-leavers and former wards and investigate erecting commemorative plaques at former institutions'.[41] The Committee understands a Sector Working Group, comprised of VANISH and CLAN and auspiced by the Centre for Excellence in Child and Family Welfare, is working in collaboration with the Department of Human Services (Victoria) to develop an appropriate memorial.

5.64 Mr Golding noted that the progress towards establishing a memorial in Victoria had been very slow.[42]

5.65 Ms Deborah Findlay, Member, Wings for Survivors, felt that there had been inadequate recognition of the Forgotten Australians in signage erected on the sites of orphanages and institutions in Victoria. In particular, some sites had memorials to staff and members of the Stolen Generations but did not acknowledge the general population of children who had spent time in 'care'. Further, Ms Findlay felt that there had been inadequate memorials erected to commemorate the lives of the many children that had died in such institutions; in some cases, mass burials of children lacked individual identifications.[43]

Western Australia

5.66 The Western Australian Department for Child Protection advised that it had allocated $50 000 through Redress WA toward a permanent memorial to those abused or neglected while in State care. The memorial was still at the planning and development stage:

> The Department for Child Protection is currently supporting and liaising with committee of former residents regarding the development of the memorial. The Department for Culture and Arts has agreed to provide space in the Perth Cultural Centre for the memorial.[44]

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40 *Proof Committee Hansard*, 8 April 2009, p. 70.

41 Department of Human Services (Victoria) website, Media Release, 'Victorians apologise to abused former wards', 9 August 2006, http://hnb.dhs.vic.gov.au/web/pubaff/medrel.nsf/LinkView/C0AEAB7E4B196DDDCA2571C50028CC12?OpenDocument, accessed 16 June 2009.

42 *Proof Committee Hansard*, 30 March 2009, p. 16.

43 *Proof Committee Hansard*, 30 March 2009, p. 45.

44 *Submission 11*, p. 14.

Recommendation 35

That the National Museum of Australia be urged to consider establishing an exhibition, preferably permanent, related to the history and experiences of children in institutional care, and that such an exhibition have the capacity to tour as a travelling exhibition.

Government response

While the Australian Government has responsibility for the National Museum of Australia, the management of Australian Government institutions is at arm's length from the government of the day. The Council and Management of these institutions form their own policies on acquisitions, exhibitions and all collections issues. The Museum has advised that while similar social issues, in particular those that affect the lives of children, have been represented in its temporary exhibitions program, it would be unable to commit to a permanent exhibition on this theme.

Oral histories

Recommendation 36

That the Commonwealth Government provide funding for the National Library of Australia to undertake an oral history project to collect the life-stories of former residents in institutional and out-of-home care.

Government response

While the Australian Government has responsibility for the National Library of Australia, the management of Australian Government institutions is at arm's length from the government of the day. The Council and Management of these institutions form their own policies on acquisitions, exhibitions and all collections issues. The National Library has advised that it would be unable to undertake a project of this scale at this time.

Implementation

5.67 FaHCSIA advised that it was not aware of any further action on these recommendations.

5.68 The AFA submitted that, despite the Commonwealth's lack of direct influence on the National Museum of Australia (NMA) and the National Library of Australia (NLA), it was open to the government to provide direct funding of an exhibition on institutional care and an oral history project on former residents:

> …it has been clear in the past that the Australian Government can influence institutions such as the National Museum of Australia and can also fund special exhibitions. Another option would be the National Archives, where a display of historical material would be appropriate.

> Any such memorial or display contributes towards banishing the widespread ignorance of this important piece of history and bringing the experiences and needs of the survivors to the fore.[45]

5.69 In relation to the NLA it observed:

> Had funding been provided, the Library would have been a very appropriate institution to take on such a project. The oral history is a priority for AFA. AFA believes that an oral history has an important role to play in acknowledging to survivors that their experiences were real and are part of history. It is also an accessible means of education for Australians generally. AFA has requested funding for a scoping study leading up to an oral history, but this has not been forthcoming at this point. The project is urgent, so that survivors can contribute to it while they are still alive.[46]

Research

Recommendation 37

That the Commonwealth Government fund research either though the Australian Institute of Family Studies or other relevant research body or university into the following areas:

- **historical research into institutional care, including the role of institutional care in Australia's social history; the history of institutions and the commissioning of personal histories of former residents;**
- **the social and economic impact and cost of institutional care; and**
- **inter-disciplinary research into the relationship between child welfare/child protection and areas such as welfare dependency, social problems such as drug and alcohol abuse and family relationship breakdowns.**

Government response

The Australian Institute of Family Studies is an independent entity, and the Australian Government has no capacity to determine its research priorities. However, the Government will explore, through the Department of Family and Community Services, possibilities for engaging other research partners to examine issues relating to the social impacts of institutional care, the ongoing needs of care leavers, service delivery ramifications and specific issues around family relationship effects. Historical research, if undertaken, would not be a primary focus. Any research should be tailored to improving outcomes for this group of care leavers. The National Child Protection Clearinghouse is contracted to the Department of Family and Community

45 *Submission 10*, pp 19-20.

46 *Submission 10*, p. 20.

Services and can be funded to carry out additional research as required. This avenue will be pursued.

Recommendation 38

That the Australian Institute of Family Studies National Child Protection Clearinghouse be funded by the Commonwealth Government to collect publications related to historical studies of institutional and other forms of out-of-home care and that this information be widely disseminated.

Government response

See response to Recommendation 37.

Implementation

5.70 FaHCSIA provided the following update to the previous government response:

> Funding is provided to the Australian Institute of Family Studies to maintain the National Child Protection Clearinghouse.
>
> The Clearinghouse disseminates information on child protection activities and research to professionals and organisations in this field. Among the clients of the Clearinghouse are: policy makers, including State and Territory government departments responsible for family and community services; service providers; professionals in child abuse prevention; researchers; and students.[47]

Tertiary study courses

Recommendation 39

That the Commonwealth, in co-operation with State Governments, establish courses of study at selected tertiary institutions that focus on child protection and related issues, especially early childhood and family studies, psychology, conflict management, the impact of institutional care and social policy to address issues in these areas.

Government response

The Australian Government supports this recommendation in principle but notes that universities are self-accrediting institutions that decide the courses they will offer, within broad profiles agreed with the Australian Government. Under the new funding framework that commenced in 2005, there will be Funding Agreements with each University, specifying the number of places across the discipline mix to be supported by the Australian Government. In reaching these agreements, every year the

47 *Submission 4*, p. 20.

Department of Education, Science and Training will meet with each University to discuss their strategic directions and plans for course offerings. This would be the stage at which the possibility of offering this training might be discussed. However, Universities decide how the funds they receive from the Government and the tuition fees they receive from their students will be used internally, as they are in the best position to allocate funds in a way that furthers their strategic direction in the provision of higher education.

Other higher education providers are autonomous institutions, which determine their own teaching arrangements and course curricula.

Agencies that employ child protection workers could seek to work with individual Universities (or other higher education providers) to develop courses that meet their needs. Funding is being provided through the Higher Education Support Act 2003 under Section 41-45 (Other Grants), for a Chair in Child Protection at the University of South Australia. The Chair was announced by the Minister for Education, Science and Training on 19 March 2004. Ten million dollars has been committed over ten years from 2004, to provide a special focus on research into child protection issues. The position of the Chair, currently held by Professor Dorothy Scott, is to lead and promote research into child protection and assist researchers working to combat child abuse across the disciplines of early childhood and family studies, psychology, education and literacy, conflict management, Indigenous communities and cultures, service delivery and social policy. The Australian Government has agreed with state and territory governments to write, as a group, to Professor Scott and seek her input and guidance on these issues.

The Australian Government will ensure that the Australian Vice-Chancellor's Committee is aware of the recommendations of the Senate Community Affairs Committee in regard to this recommendation.

Additionally, in vocational education and training, the Community Services and Health Industry Skills Council will be developing a national competency framework for workforce planning for Family Counsellors, Family Dispute Resolution Practitioners and workers in Children's Contact Services. This project, to be undertaken during 2005-2006, was funded by the Attorney General's Department (Family Pathways Branch).

Vocational/job outcomes for workers will be achieved by developing competency standards and qualifications, and supporting their work under a national structure. The competency standards/qualifications are planned to be included in the Community Services Training Package.

Further, the Certificate IV in Mental Health Work (Nonclinical), in the current Community Services Training Package, was developed for health workers who provide a range of community services and community interventions to clients with mental health issues and/or implement health promotion and community interventions. Their work may take place in a range of contexts such as community

based organisations, residential rehabilitation services and outreach services. This qualification refers to specific knowledge of a "clients with mental health issues" group and appropriate intervention processes applied in residential and community settings.

Also in the Community Services Training Package are three child protection qualifications: Certificate IV in Community Services (Protective Care), Diploma of Community Services (Protective Intervention) and the Diploma of Statutory Child Protection. These are delivered by TAFE and other Registered Training Organisations. The Community Services Training Package also provides national Certificate, Diploma and Advanced Diploma qualifications in the areas of children's services, residential support services, and non-residential services. In 2006-07 the Department of Education, Science and Training plans to fund the Community Services and Health Industry Skills Council to review the Community Services Training Package. Extensive stakeholder consultations occur during development and review to ensure that the Training Package is relevant to industry's needs and usable. Before the Training Package is endorsed for use, the developer must validate it with all relevant stakeholders and provide evidence of broad industry support.

Note that States and Territories are responsible for the quality of training and assessment, and for prioritising the allocation of funding for New Apprenticeships and other VET courses.

Implementation

5.71 FaHCSIA provided the following update to the previous government response:

> Australian Government funding has been provided for a Chair in Child Protection at the University of South Australia, currently held by Professor Dorothy Scott. The Australian Government agreed with state and territory governments, as a group, to write to Professor Scott to seek her input and guidance on this issue.
>
> This item was put on hold due to the death of Dorothy Scott's mother.
>
> FaHCSIA is not aware of further action.[48]

48 *Submission 4*, p. 21.

5.72 In additional information provided at the request of Committee, FaHCSIA further advised that the *National Framework for Protecting Australia's Children* recognises the need to work across government and non-government sectors to educate and engage the community to influence attitudes and beliefs about abuse and neglect. To this end:

> Actions under the Framework will support community organisations to deliver cost effective, community based initiatives, including information and awareness activities. In addition, initial actions under the Framework include a commitment by the Commonwealth to lead a partnership with States and Territories to support a National Research Agenda for Child Protection.[49]

49 *Submission 4a*, pp 2-3.

CHAPTER 6

CONCLUSIONS AND RECOMMENDATIONS

National leadership

6.1 Evidence to the inquiry overwhelmingly indicated that, despite progress made, there remains much work to be done on the implementation of the recommendations of the *Lost Innocents* and *Forgotten Australians* reports. The reasons for this are various, and include refusal to implement, failure to implement, partial implementation and changing circumstances. The Committee notes that, with the benefit of experience since the original reports, certain recommendations might need revision to achieve the desired outcomes for care leavers.

6.2 In relation to former child migrants, the Committee notes that the Commonwealth government offered support for, or undertook to take action on, roughly two-thirds of the recommendations of *Lost Innocents*. A number of others were rejected but on the basis that the government would undertake a commensurate or alternative course of action elsewhere. For example, it refused to extend funding for the UK travel fund and tracing agencies in the UK on the basis that it would fund a travel scheme and the Child Migrants Trust in Australia.

6.3 While former child migrants share many if not all of the problems and concerns of Forgotten Australians, the enduring issues that are specific to this group generally relate to funding and services around the facilitation of overseas family reunions. This reflects the often cruel historical policies and practices around child migration, which denied many the knowledge of their own families and relations. Despite the steps taken by the Commonwealth government to implement the recommendations of *Lost Innocents*, there remains a substantial need for national leadership in continuing to provide funding for former child migrants to access specialised services in Australia, and to foster and maintain transnational links with relevant departments and agencies overseas.

6.4 More generally, former child migrants as a subset of the Forgotten Australians—people who experienced abuse and neglect in institutions and out-of-home care as children—have a range of other health needs arising from their childhood experiences. The need for national leadership on the recommendations of the *Forgotten Australians* report is therefore no less critical.

6.5 The Committee agreed that, despite some areas of improvement, the implementation of the recommendations of the *Forgotten Australians* report has in many ways been poor, and most particularly in critical areas where leadership is required by the Commonwealth government, both to ensure adequate recognition of the historical truths acknowledged in its original response, and to fashion a truly coordinated national response that delivers practical services and outcomes for those who suffered the horrific abuse and shameful neglect in care over the last century.

6.6 The previous Commonwealth government's welcoming of the *Forgotten Australians* report, and acknowledgment of the events it examined as being 'a matter of shame for this country', stand in contrast to the overall tenor of its response to the recommendations. Of the 39 recommendations of the *Forgotten Australians* report, the government rejected over half either explicitly or on the basis that the responsibility for implementation resided in a State or authority over which the Commonwealth had no responsibility or capacity to influence. Some recommendations were less explicitly rejected, with the response indicating 'in-principle' support but merely pointing to existing schemes or processes as sufficient and appropriate to satisfy the intent of the recommendation. A number were effectively rejected, with the response indicating agreement with the recommendation yet making no commitment to implementation; and disappointing lack of action thereafter. Yet other recommendations were accepted but with a commitment to undertake some relatively minor action such as bringing a matter to the attention of another agency or body.

6.7 The Committee acknowledges the constitutional division of responsibilities which allowed the previous Commonwealth government to reject responsibility for so many of the recommendations of *Forgotten Australians*. That noted, the Committee affirms its view that the Commonwealth occupies a special place in the Australian federation which affords it a unique leadership role in national challenges such as this. It should be remembered that the Commonwealth's child endowment payments to the States—to whatever degree they may be said to have sustained the operation of the institutions in which abuse and neglect of children was commonplace—undeniably facilitated the system which caused so much harm and lasting damage to children consigned to its care. Less directly, but just as clearly, the Commonwealth was responsible for its financial support of the States to implement their flawed policies on child protection over many decades.

6.8 Further, the Committee's original report was clear that any strict jurisdictional limits on the Commonwealth's responsibility for child protection are overborne by the moral obligation that rests with the national government to provide clear leadership in matters of national significance and importance. As Australia's federal system has evolved, with the increasing centralisation of policy and service design and coordination in the federal sphere, that moral obligation only increases. With conservative estimates that over half a million people experienced out-of-home care across Australia in the last century, the national significance of the issues brought to prominence by *Forgotten Australians* is undeniable. The proper implementation of its recommendations is important in order to satisfy the values of fairness and compassion that mark the Australian character.

6.9 The Committee welcomes the current government's recognition that there is a need to do more to progress the implementation of the recommendations of Forgotten Australians report, and its undertaking to review the previous government's responses and identify areas in which it can contribute and make improvements. The Committee urges the Commonwealth, where possible, to pursue coordinated strategies for the implementation of recommendations through national forums such as the Council of

Australian Governments (COAG) and the Community and Disability Services Ministers' Advisory Council (CDSMAC).

The role of the States

6.10 Many of the recommendations of *Lost Innocents* and *Forgotten Australians* prescribed certain actions and responsibilities for the States and/or churches and religious agencies, based on the clear relationships of responsibility and duty of care between these entities and the vulnerable children placed in their care.

6.11 Of the States, Queensland is notable, and to be commended, for being an early mover on care leaver issues, although much of this was set in train by the Forde Inquiry rather than the reports of the Committee. This has seen Queensland not only conduct a redress scheme but also establish a foundation to support care leavers and pioneer a care leaver services hub through the co-location of services at Lotus Place. Tasmania and Western Australia are also notable for having established redress schemes, and South Australia and very recently Victoria have improved their funding commitments for the support and provision of services to care leavers.

6.12 Despite these improvements, the inquiry has shown that the States are collectively underfunding the services so desperately required by care leavers, such that lack of funding is a de facto barrier to access even where a service is nominally available. Most important of all, however, is that the implementation of recommendations has been inconsistent across the States, and these disparate responses are the underlying cause of the many inequities faced by care leavers in (a) the levels and availability of services across State borders and (b) denial of access to services in States other that the one in which a care leaver was resident in care as a child.

6.13 While the Committee acknowledges that at all States have sought to implement various recommendations, a greater commitment to the provision of comprehensive services is critical for the spirit and intent of the Committee's reports to be fulfilled. As it does the Commonwealth, the Committee urges the States, where possible, to pursue coordinated strategies for the implementation of the reports' recommendations through national forums such as the Council of Australian Governments (COAG) and the Community and Disability Services Ministers' Advisory Council (CDSMAC).

National and State apologies

6.14 In relation to a formal statement by the Commonwealth acknowledging the error of child migration schemes and expressing regret for the harms suffered by former child migrants, the Committee notes that the expression of regret contained in the Commonwealth's response to this recommendation was insubstantial and insufficient to satisfy the spirit or intent of the recommendation.

6.15 The Committee therefore urges the current Commonwealth government to commit to providing such an acknowledgment as an act of national leadership to

recognise both the role of previous Australian governments in child migration programs and the experiences of former child migrants. The Committee believes that any such acknowledgement could be issued in conjunction with, or incorporated into, a national apology for care leavers more broadly, discussed below. However, any such apology would need to contain specific reference to former child migrants and to the elements of acknowledgment and expression listed in the original recommendation of the *Lost Innocents* report.

Recommendation 1

6.16 The Committee recommends that the Commonwealth government issue a formal acknowledgement and expression of regret to former child migrants in accordance with recommendation 30 of the *Lost Innocents* report; and that this statement be issued in conjunction with, or as a part of, a broader Commonwealth apology to people who experienced abuse and/or neglect in institutional or out-of-home care as children.[1]

6.17 The Committee found that, of the States, only Western Australia and South Australia have issued formal statements that specifically acknowledge their respective roles in the child migration schemes of last century.

6.18 However, all States have now issued public formal apologies to care leavers more generally, as per the Queensland statement which the Committee's original recommendation proposed as a satisfactory model for the States to follow. These have, to varying degrees of success, acknowledged the experiences of care leavers more generally, as well as the responsibility of the States for the harms suffered by children in care. Therefore, to the extent that these State apologies were in themselves sufficient in substance and appropriately made (see below), the Committee considers the States to have made satisfactory formal statements as originally recommended. The Committee notes also that many States have made suitable statements at the unveiling of memorials for former child migrants, established on the basis of other recommendations of the *Lost Innocents* report.

6.19 The Committee received considerable comment on recommendation 1 of the *Forgotten Australians* report that the Commonwealth government issue a formal statement on behalf of the nation acknowledging the hurt and distress suffered by care leavers and apologising for the harm caused to children who suffered neglect and abuse in institutional care.

6.20 Many submitters and witnesses considered this issue to be emblematic of the Commonwealth's moral responsibility and duty of leadership in relation to care leavers. The failure of the previous Commonwealth government to act on this recommendation was contrasted with the 2008 apology to the stolen generations. The Committee agreed with the view that that apology was a powerful example of how

1 The Committee notes that the wording used in recommendations 1 and 2 reflect the wording of the original recommendations of the two reports which utilised varied language of the time.

such an act can promote healing and reconciliation when offered with due respect for ceremony, symbolism and sincerity, and is an appropriate model for a national apology to care leavers. While the Committee notes the importance of practical assistance and reparations for care leavers, it does not consider that the issuing of an apology should be formally tied to any particular scheme or form of assistance. The importance of providing services and compensation to Forgotten Australians is not underestimated in recognising that these things should not be a pre-condition of an apology.

Recommendation 2

6.21 The Committee recommends that the Commonwealth government issue a formal statement of acknowledgement and apology to children who suffered hurt and distress, or abuse and assault, in institutional care, in accordance with recommendation 1 of the *Forgotten Australians* report.

6.22 In terms of State responses to *Forgotten Australians* recommendation 2, the Committee notes that at the time of that report only Queensland had issued an appropriate statement of acknowledgment and apology to care leavers. However, since then the remaining States—New South Wales, South Australia, Tasmania, Victoria and Western Australia—have each made such a statement. The Committee commends the States for these actions, despite some criticisms by care leavers about the form and substance of apologies. With one exception, the Committee felt that the State apologies satisfied the intent of Committee's original recommendation. The one exception was the New South Wales' apology, which was issued as a response to a question without notice in the New South Wales parliament. This occasion did not adequately involve care leavers and clearly lacked an appropriate spirit of bipartisanship and ceremony. The Committee was also unimpressed by the substance of the apology, which was cursory and lacking in sensitivity. The Committee notes with approval that the New South Wales government has indicated it is committed to re-issuing its statement to care leavers. In light of this, the Committee considers it is unnecessary to make any further recommendation on this issue.

6.23 The Committee received very little evidence in relation to statements issued by churches and agencies since the *Forgotten Australians* report, which reflects the fact that there has been little action by churches and agencies since that time. An exception was the apology delivered by Pope Benedict to victims of abuse by the Catholic Church in Australia, although this was the subject of criticism.

6.24 More generally, the Committee was unanimous in its concern at the poor performance of the churches and religious agencies in implementing the recommendations of *Forgotten Australians*. The Committee is frustrated at the lack of proper acknowledgment of the issues raised in the report. This is itself underscored by the absence of any coordinated or comprehensive effort to take actions that are commensurate with the obligation to accept responsibility, and make reparation, for the abuse and neglect suffered by children in the care of churches and religious agencies. With this in mind, and given their almost complete failure to participate in the present inquiry, the Committee agreed it is appropriate that such bodies be asked

to provide unequivocal public statements addressing the recommendations of the *Lost Innocents* and *Forgotten Australians* reports. These statements will provide a necessary baseline against which the public and any future inquiries on these matters may judge the progress of churches and religious agencies on these issues.

Recommendation 3

6.25 The Committee recommends that the Prime Minister write to relevant churches and religious agencies requesting that they provide formal statements concerning the need for such bodies to make reparation to children who suffered abuse and neglect in their care in the last century, and addressing in particular the issues of apology, redress and provision of services to care leavers, and the implementation of the recommendations of the *Forgotten Australians* report; the Committee further recommends that the Prime Minster cause the statements provided by churches and religious agencies to be collated and tabled in parliament.

Reparation and redress schemes

6.26 Recommendation 6 of the *Forgotten Australians* report went to the establishment of a national redress scheme by the Commonwealth. While this was not supported by the government, much of the evidence received by the inquiry commented on this issue and on redress funds more generally.

6.27 The Committee notes that a number of States have established redress funds. These are:

- Tasmania: this 2003 scheme predated the *Forgotten Australians* report, but was re-opened in 2008 in recognition of the number of outstanding claimants;
- Queensland: this scheme operated over 2007-08, with second-tier payments still being assessed; and
- Western Australia: applications for this scheme closed on 30 April 2009, with claims still being assessed.

6.28 Of the remaining States, South Australia is currently in the process of deciding whether it will establish a scheme. New South Wales and Victoria, however, have explicitly refused to establish redress schemes, insisting that care leavers must pursue claims through the criminal and/or civil courts.

6.29 A number of concerns were raised regarding inequitable outcomes arising from the State redress schemes. One source of these was the inconsistency of access, which can clearly be addressed only through providing all care leavers with access to a redress scheme, regardless of the State in which they grew up as children or reside in today.

6.30 A second source of inequity arises from the limited timeframes for the operation of redress schemes, which means that people are excluded if they do not submit an application in the period allowed. This is particularly problematic because

many care leavers face barriers to accessing schemes by virtue of their experiences in care, such as social isolation and mistrust of bureaucracy. While the Committee understands the imperatives in seeking to confine the administrative burden of schemes through definite timeframes, it is appropriate that provision is made for continuing receipt of applications for redress. The evidence to the inquiry suggests that this is unlikely to represent a significant administrative burden to governments.

6.31 A third source of inequity relates to the different conditions and amounts of compensation provided across the various State schemes. The Committee heard that even within schemes differentiated payments—whether based on legalistic assessments of harm and damage or on pre-defined levels according to evidence submitted with claims—can lead to distress for applicants. This occurs both through the re-traumatisation of having to detail abuses in order to establish claims; and through feelings that awards of compensation amounted to judgements on the relative severity of abuse, or indeed on whether or not abuse in fact occurred. The Committee acknowledges that this is a difficult issue to resolve, given the necessity of establishing reasonable criteria for the payment of compensation to claimants. The evidence to the inquiry suggests that this issue is best addressed through tiered payments based on graded standards of proof, and by the provision of suitable support and counselling for claimants to prepare applications, in the communication of reasons for decisions relating to claims, and in the processes for receiving and resolving complaints.

6.32 The Committee notes that the operation of redress schemes to date, both internationally and domestically, provides many valuable lessons in how such schemes can be best designed and administered to avoid inequitable or distressing outcomes for claimants. The Committee commends the most recent Australian scheme, Redress WA, as a demonstration of how the lessons of past schemes can be applied to achieve the best possible outcomes in this area.

6.33 Beyond these issues, the Committee was impressed by the positive potential of redress schemes as public forums to acknowledge the experiences of care leavers and to allow people to tell their stories in an appropriately formal yet sensitive environment. Further, while the Committee understands that money could never compensate for the childhood abuse and neglect, such awards—particularly when coupled with individual apologies to claimants—can be a worthy source of vindication and recognition for care leavers.

6.34 The Committee also considers that redress schemes can effectively contribute to the identification and prosecution of historical crimes of sexual and physical abuse. Evidence to the inquiry revealed the importance of centralised and coordinated avenues for the reporting and investigation of such offences by appropriately expert and dedicated police units. Redress schemes, properly linked to and supported by appropriate police units, can improve the detection of patterns of criminal behaviour and establish the all-important corroboration of claims that is critical to the standards of proof needed in criminal trials. The Committee believes that future redress schemes established in Australia must be designed to ensure that they maximise the potential

for the identification of recidivist conduct as well as information corroborating other claims.

6.35 The Committee heard contrasting views on whether the Commonwealth should establish a national reparations fund as per recommendation 6 of *Forgotten Australians*, or instead use its influence to ensure that those States which have not yet done so establish redress schemes. Taking into account the operation of redress schemes in three States since the original recommendation, the Committee concluded that the appropriate role for the Commonwealth from this point on is to actively ensure that that redress schemes are established by those States which have not yet done so, namely South Australia, New South Wales and Victoria. The Committee regards this as the most administratively feasible and cost effective approach, given the need for States to be intimately involved in processing applications, accessing care leaver records, providing appropriate support for applicants and making determinations.

6.36 However, the Committee considered that there remains a moral obligation on the Commonwealth to make an additional commitment to the making of reparations to care leavers. It is appropriate, given the conclusions of this and previous reports, that this commitment is demonstrated through the Commonwealth showing leadership to ensure that the establishment and continuation of State redress schemes is pursued through COAG and any other appropriate national forum. The Committee notes that the financial contribution of the Commonwealth to care leavers is most appropriately directed towards funding of the national care leaver groups and services for care leavers, as outlined in subsequent recommendations.

6.37 The Committee believes that the Commonwealth government has a critical role to play in ensuring that redress schemes are established in the States identified above. The Commonwealth has a moral obligation to use its substantial influence to ensure that the issue of redress schemes is taken up in the appropriate policy forums, and is a consideration in its financial support of the relevant States. In relation to the other States, the Commonwealth must ensure that ongoing provision is made to provide redress to care leavers who may have been disadvantaged by the limited periods of operation for redress schemes.

Recommendation 4

6.38 The Committee recommends that the Commonwealth government pursue all available policy and political options to ensure that South Australia, New South Wales and Victoria establish redress schemes for people who suffered neglect and/or abuse in institutional settings or out-of-home care in the last century; and that the remaining States make provision to ensure continued receipt of redress claims.

Recommendation 5

6.39 The Committee recommends that the Commonwealth government pursue the establishment of State redress schemes through the Council of Australian Governments (COAG) and other appropriate national forums.

6.40 An issue related to the making of reparations was *Lost Innocents* Recommendation 17, which called for the conferring of automatic citizenship on former child migrants. The recommendation also called for provision to be made for individuals to exercise choice over whether they would receive citizenship on these terms. Given this, it is apparent that the Commonwealth government response—which objected to this proposal on the grounds that it could conflict with a person's existing citizenship status or preference—was at least in part poorly considered. Nevertheless, the Committee accepts that a legislative approach to the issue may not have been necessary, given the apparent number of cases involved. Although the Committee was unfortunately not able to determine how many of former child migrants who have become Australian citizens since their arrival in Australia or since the publication of *Lost Innocents*, there was evidence that few cases involving citizenship problems for former child migrants are outstanding. The Committee did not identify any systemic or administrative remedy for those cases that remain to emerge or be settled, leading it to conclude that remaining cases may be appropriately dealt with on a case-by-case basis by DIAC. The Committee notes that the CMT is able to offer assistance in such cases.

6.41 In relation to church redress schemes, the evidence to the inquiry suggests that there are still considerable problems with the variation in processes across the various church jurisdictions. The anecdotal evidence of advocates with experience in accessing and negotiating these schemes revealed considerable dissatisfaction and frustration at the inconsistency of processes, which meant that potential claimants could not anticipate the likely course of proceedings, and were not receiving comparable treatment.

6.42 Equally, the Committee heard claims that the transparency and accountability of church redress processes were often being undermined by serious breaches of procedural and natural justice standards, such as the withholding of documentation, inadequate documentation and personnel performing multiple roles in the process.

6.43 Overall, witnesses indicated that church processes were conducted in a highly unfair and strategic manner, as reflected in inadequate compensation outcomes for claimants, particularly where those who did not employ an advocate in negotiations with church lawyers.

6.44 While some witnesses invited the Committee to conclude that church redress schemes are of little or no worth, the Committee supports the original recommendation of *Forgotten Australians*. Despite the shortcomings that still affect church processes, such schemes represent a legitimate source of redress for care leavers and in many cases are the major contribution of such organisations to compensating care leavers for past wrongs. Given this, churches must take steps to

ensure greater of consistency across all institutions and States; and that redress processes conform to the elements defined in the Committee original recommendation.

Recommendation 6

6.45 The Committee recommends that churches take steps to ensure that processes for handling abuse allegations are consistent across all jurisdictions; and that such processes conform to recommendation 7 of the *Forgotten Australians* report.

Delivery of services

6.46 In relation to former child migrants, the Committee acknowledges that the previous Commonwealth government's response to the implementation of the recommendations of the *Lost Innocents* report was appropriate insofar as it focused on issues of great importance to former child migrants, in particular the funding of the Child Migrants Trust (CMT) and establishment of an Australian travel fund. The Committee considers that the Australian travel fund for former child migrants was well-designed and sympathetic to the needs of former child migrants. However, while the Committee understands that issues of cost and probity required the fund to be restricted in terms of its eligibility requirements and period of operation, there was significant evidence that these limits operated in a capricious manner, allowing only those fortunate enough to locate family or a gravesite in the requisite time—and indeed those who were willing and able—to receive funding for their travel. Further, the experience of participants has shown that the limit of one trip per applicant was clearly inadequate to offer ongoing support for former child migrants to re-establish and develop links with family overseas.

6.47 The Committee therefore feels that the Commonwealth should consider giving further support for former child migrants to re-establish and develop family connections. Such assistance could, for example, take the form of financial grants (not premised on discriminatory eligibility criteria) or a re-opening of the Australian Travel Fund (allowing claims from both new and previous applicants).

Recommendation 7

6.48 The Committee recommends that the Commonwealth government provide further financial and other support for former child migrants to re-establish and develop family connections.

6.49 The present inquiry confirmed the importance to former child migrants of the CMT, which has developed and continues to demonstrate its extensive expertise in dealing with former child migrants and pursuing their interests. In particular, the Committee was impressed by the CMT's highly professional and continuing work in tracing its clients' relatives and, in effecting family contact and reunions.

6.50 Historically government funding for the CMT has been through the settlement funding program of the Immigration department.[2] With these programs now focussed on newly arrived migrants, there was some discussion that this may no longer be the most appropriate area for the government to provide funding for the Trust and that programs in FaHCSIA may now be more suitable.[3]

6.51 However, the Committee was pleased to be advised by DIAC that the government had committed to extend the funding of the Trust until 2011-12. The Committee commends the previous and current Commonwealth governments for their financial support of the CMT and also acknowledges the funding support of Western Australia. The Committee continues to be impressed by the efforts of the Trust to locate the families of former child migrants and notes the ongoing nature of this time-consuming and resource dependent work, and recognises that the level of funding to the Trust directly impacts on the level of services it is able to deliver on a national basis. Accordingly, the Committee considers that the remaining States should also make funding contributions to the CMT to assist in its work for former child migrants.

Recommendation 8

6.52 The Committee recommends that State governments which have not yet done so commit funding to the Child Migrants Trust (CMT) for at least the next three years.

6.53 In relation to the range of services required by care leavers generally, recommendations 23 to 30 of the *Forgotten Australians* report addressed the areas of provision of counselling; health care, housing and aged care; and education. The report showed as a group that care leavers have extensive, diverse and in many cases particular needs, arising from their childhood experiences. Evidence going to the delivery of services for care leavers to the present inquiry indicated that, while the level and scope of services with a particular focus on care leavers has improved to some extent, there is still substantial progress to be made on implementation of the Committee's recommendations in this area.

6.54 The majority of services specifically designed for and aimed at care leavers are delivered by non-government bodies or agencies, and support groups such as CLAN, VANISH (though their services will soon be reduced) and, in Queensland, the collection of services located at Lotus Place. While a range of services and support is available for care leavers, levels of funding in most cases appear to represent an effective barrier to access.

6.55 Arrangements for the provision of services to be available to care leavers in their State of residency irrespective of the State in which they received care have not been developed. Instead, care leaver services are often available for ex-residents of a

2 The Immigration department has had a number of titles during its period of funding the CMT.

3 Mr Peter Templeton, Assistant Secretary, Settlement Branch, DIAC, *Proof Committee Hansard* 8 April 2009, p.54.

State's institutions, regardless of where a care leaver now resides in Australia. Some States will also assist its residents to access services in the State in which they experienced care. While the Committee notes that States have made good efforts to improve their administration and support for such arrangements, these will continue to produce inequitable outcomes as long as there are different ranges or levels of service across the States. A number of States offered in-principle support for reciprocal access to services for care leavers access all States. However, the high-level policy commitment to this proposal has been lacking.

6.56 A number of submitters and witnesses raised the issue of instituting a health care card specifically for care leavers to access the range of available health services, similar to the gold card made available to veterans. While the Committee understands the attraction of such an approach, it did not agree that this was the best or most appropriate way to target services to care leavers that recognise the particular needs of that group.

6.57 The Committee found that specialist counselling services for care leavers is available in most States. However, as noted above, access to appropriate long-term counselling is effectively restricted by modest levels of funding to those bodies with the relevant expertise to provide or broker this service.

6.58 The evidence to the inquiry suggested that the Committee's original recommendations going to the provision of services remain highly relevant to the current needs and experiences of care leavers. Given this, and the slow progress on ensuring the availability of a comprehensive range of services, particularly counselling, across all States, the Committee feels that a particular focus on funding for bodies providing particular support and services for care leavers is the appropriate way to achieve the intent of the original recommendations. This issue is addressed below.

6.59 With regard to programs in health care, housing, aged care and education that specifically recognise and cater for the needs of care leavers, the Committee found that the Commonwealth and State governments alike have been resistant to the development of such programs. Governments variously argued that specific recognition of care leavers would operate to discriminate against this group, was not justified by the numbers of care leavers seeking access to services, or was unnecessary because existing services were available according to the general criteria for eligibility. Information on existing programs in these areas showed that, where care leavers have been acknowledged and catered for as a specific cohort, this tended to focus on the current generation of care leavers as opposed to the so-called older care leavers that were the subject of the *Forgotten Australians* report.

6.60 The Committee naturally supports all efforts and strategies to ensure that the systemic problems of the past are not repeated or visited upon those in care now or in the future. This was the focus of the Committee's report, *Protecting Vulnerable Children: A National Challenge*, which was the second report of the inquiry into children in institutional or out-of-home care. This report was clearly heavily informed

by *Forgotten Australians*, and some submissions to the present inquiry also addressed the implementation of its recommendations. A notable development in this area is also that COAG has recently endorsed a national approach to child protection through *Protecting Australia's Children is Everyone's Business: National Framework for Protecting Australia's Children*. Primarily, this framework will seek to build collaborative approaches to preventing child abuse and neglect. However, outcomes 4 and 6 the framework also recognise that appropriate support and care is needed for survivors of any abuse and/or neglect.

6.61 Notwithstanding recent steps, the Committee rejects arguments that older care leavers are not a significant group or can be adequately accommodated within health, housing, aged care and education programs without recognition of their likely and particular needs. Given this, the Committee re-endorses recommendations 25 to 28, and recommendation 30, of the *Forgotten Australians* report, and urges the Commonwealth and State governments to commit to explicit recognition of older care leavers in the funding and development of health, housing, aged care and education programs.

6.62 The Committee notes that the development of strategies such as the framework for protecting vulnerable children, to the extent that it deals with the needs of older care leavers is a step towards demonstrating the whole-of-government commitment to program and service delivery called for in recommendation *Forgotten Australians* recommendation 33. The Committee commends the government for its use of COAG as a forum to work towards national approaches to program and service delivery in as health and education, and urges the government to consider care leavers as a specific cohort in whole-of-government approaches in these areas. The Committee therefore re-endorses recommendation 33 of the *Forgotten Australians* report.

Recommendation 9

6.63 The Committee recommends, in accordance with recommendation 33 of the *Forgotten Australians* report, that the Commonwealth and States commit, through the Council of Australian Governments (COAG), to implementing a whole-of-government approach to the provision of programs and services for care leavers across policy areas such as health, housing and welfare and community services and other relevant policy areas.

Recommendation 10

6.64 The Committee recommends that the Commonwealth and State governments reconsider the previous responses to recommendations 25 to 28 of the *Forgotten Australians* report with a view to explicitly recognising and meeting the needs of older care leavers in the funding and development of health, housing, aged care and education programs; and ensuring that appropriate services are provided.

6.65 Both the *Lost Innocents* and *Forgotten Australians* reports recognised that an important aspect of service design and delivery for Forgotten Australians was the collection and maintenance of adequate data or information on care leavers, or groups of care leavers. Evidence to the present inquiry demonstrated that, although the potential benefits of such undertakings remain clear, the corollary of governments' unwillingness to recognise care leavers in the specific design or advertising of services is that governments are also not prepared to seek a better understanding of this group through commissioned studies (*Lost Innocents* recommendation 5) or the use of data collection via Medicare or Centrelink forms (*Forgotten Australians* recommendation 31). The Committee notes that its previous reports received unequivocal evidence of the needs of former child migrants and care leavers, sufficient to justify the recommendations of those reports. In light of the Commonwealth and State governments disagreeing with the need for services to be specifically targeted or communicated to care leavers, the Committee concluded that a comprehensive study on the scope and extent of services required by this group is needed to underscore both policy and debate in this area.

6.66 Finally, the Committee considers that there has been very poor progress on the related issue of the establishment of tertiary courses of study focused on child protection and related issues, as per recommendation 39 of *Forgotten Australians*. The Committee agreed that action on the undertakings provided in the original response to this recommendation has been disappointing, and considers that the Commonwealth should resume its dialogue with the Chair in Child Protection on the implementation of recommendation 39. The Committee notes that the outcomes of this work should complement the Commonwealth-State commitment to support a National Research Agenda for Child Protection through the *National Framework for Protecting Australia's Children*. In urging the Commonwealth to re-commit to and advance these undertakings, the Committee re-endorses its original recommendation relating to tertiary study courses.

Recommendation 11

6.67 The Committee recommends, in accordance with recommendation 39 of the *Forgotten Australians* report, that the Commonwealth, in co-operation with State Governments, establish courses of study at selected tertiary institutions that focus on child protection and related issues, especially early childhood and family studies, psychology, conflict management, the impact of institutional care and social policy to address issues in these areas.

Identification and access to records

6.68 In relation to former child migrants, the Committee found that there has been a substantial improvement in identification of and access to records through the development of directories and databases both specific to this group and more generally related to people who spent time in institutional or out-of-home care as children.

6.69 For Forgotten Australians more broadly, evidence suggested that there has also been considerable, albeit ad hoc, improvements across the States and other relevant organisations and agencies in terms of the preservation and identification of care leaver records. And, as noted above, many States have publications and guidelines or legislation to assist people seeking personal records of their time in State or out-of-home care. Commendably, a number of specific programs offering support for members of the stolen generations to locate and access records now exist. However, there are few programs to assist care leavers more generally, most of whom are required to obtain assistance with locating and accessing records from care leaver support groups. A notable exception in development is the Victorian 'Who Am I' project, an interactive historical database that could prove an accessible means of access to the personal histories of care leavers.

6.70 The Committee found that the lack of dedicated information and search services for care leavers generally meant that there was no supported access to records for care leavers, other than what is available through established care leaver support services. Some States offer advice or referrals through the department's granting access to records. However, access to records is invariably governed by FoI and privacy regimes, although in some cases administrative arrangements are in place which, while still subject to FoI and privacy principles, can improve access for care leavers. While fees for FoI applications involving personal information are routinely waived, the Committee notes a continuing concern with the complexity and timeframes involved.

6.71 An issue of particular concern in relation to records was the effect of privacy restrictions on access to information concerning third parties. This restriction impacts harshly on care leavers, who are continuing to receive records with information relating to third parties blacked out. In many cases, this information concerns family members—a cruel outcome for people who are often seeking to establish the family relationships or sense of self and personal identity that was denied by the circumstances of their upbringing. The Committee supports calls for the Commonwealth and States to seek to reform FoI and privacy regimes to ensure better provision for care leavers to access information on their relatives and family, for example, through a discretion to allow third-party access in FoI legislation in legitimate cases. The Committee urges the Commonwealth to pursue this issue through the Council of Australian Governments (COAG) as per the original recommendation of the *Forgotten Australians* report. The Committee also calls for current reviews of the Commonwealth and Queensland FoI regimes to explicitly address this issue.

Recommendation 12

6.72 The Committee recommends that the Commonwealth government pursue the reform of national freedom of information (FoI) and privacy legislation to ensure that care leavers are not hindered in their access to information about their childhoods and families; and that current and future reviews of Commonwealth and State FoI regimes explicitly address this issue.

6.73 All States reported that there was no longer any destruction of care leaver records taking place; and that procedures for the retention and preservation of such files are in place. Evidence received from some religious and non-government organisations also showed that such systems were either in place or under development. However, care leaver organisations expressed concern that some destruction of records was taking place in non-government settings.

Role and operation of support groups and other bodies

6.74 The Committee notes that there was a range of views in relation to particular support and advocacy groups, and that the performance of support groups was generally the subject of both praise and criticism to varying degrees. The Committee recognises that arises in part because of work done by such groups, which must attempt to encompass the diverse and complex needs and concerns of a broad collection of individuals who have suffered great physical and emotional harm. When this complexity of membership is combined with the very limited resources and the administrative and bureaucratic structure that are necessary to operate such bodies, the Committee understands that there is a degree of conflict and dispute, often at a philosophical level, and occasionally at a personal level.

6.75 Having noted the inevitability of some disagreement occurring between such groups and their members or interested parties, the Committee expresses its support and admiration for all care leavers and the groups which work in good faith to support them.

6.76 As with the previous inquiries into former child migrants and care leavers, evidence to the inquiry demonstrated that support and advocacy groups provide the majority of the essential and targeted information and services accessed by care leavers. There is a substantial number of care leaver advocacy and support groups, representing a spectrum of approaches to providing support, self-help, solidarity and succour to those abused and neglected in institutional care. Noting the diversity of care leavers themselves, the Committee believes that it is important that a range of such groups is supported to maintain a range of opportunities for social interaction and networking for care leavers. The Committee acknowledges that the number of such groups is increasing.

6.77 Equally, however, the Committee notes that the Alliance for Forgotten Australians (AFA) and Care Leavers Network Australia (CLAN) respectively play critical national roles in advocating for, and providing services to, care leavers. The Committee believes that it is particularly important that these groups continue to be supported through funding to develop the national character of their work, given that so many of the Committee's original recommendations pertain to jurisdictional barriers and better national coordination of services. While the Committee acknowledges the previous Commonwealth's governments funding support for the AFA and CLAN, evidence to the inquiry showed that a higher and recurrent funding commitment is needed to properly support the advocacy and services they provide, and ensure that such groups can be as inclusive as possible through being able to

maintain an effective national presence and, in the case of CLAN, without having to fund its services through membership fees.

6.78 Given the need to support the major national groups offering and advocacy and support for care leavers, and as much as is possible and practicable to maintain the variety of groups providing support for care leavers, the Committee considers that the Commonwealth government should significantly increase its funding of the AFA and CLAN. To support the smaller State groups and organisations offering advocacy, support and self-help in this field, the Department of Families, Housing, Communities and Indigenous Affairs (FaHCSIA) should be funded to administer a fund to provide operating grants to such care groups.

Recommendation 13

6.79 The Committee recommends that the Commonwealth government provide recurrent funding to the Alliance for Forgotten Australians (AFA) and Care Leavers Network Australia (CLAN) to enable these groups to continue providing adequate services to care leavers on a national basis.

Recommendation 14

6.80 The Committee recommends that the Commonwealth government provide funding to the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) to administer a fund for providing operating grants to care leaver advocacy and support groups.

Judicial Reviews and Royal Commission

6.81 In relation to the question of holding judicial inquiries into the treatment of children in institutional care, the Committee considered whether a fresh endorsement of the Committee's original recommendation was justified in the light of developments since the publication of the *Lost Innocents* report. The Committee noted that the Forde Inquiry in Queensland and, since then, the Mullighan Inquiry in South Australia have led to significant recognition of people who suffered neglect and abuse while in the care of the State; as well as important changes to systems of child care and protection addressing the fundamental recommendations of the two inquiries. The Committee notes that to a considerable extent the lessons of these inquiries are also reflected in reforms to those systems in other States, as well as in the development of national approaches. In South Australia, many of the recommendations of the Mullighan Inquiry went to administrative, procedural and professional reforms to the police service to ensure that the justice system could deal appropriately with allegations, victims and perpetrators of sexual abuse of children.

6.82 The Mullighan Inquiry, which had as its focus allegations of sexual abuse and death of children in State care, resulted in 170 allegations from a total of 826 being referred to police. As at 1 April 2008, the Committee understands that two suspects had been arrested and 14 matters referred to the South Australian Department of

Public Prosecutions.[4] The Forde Inquiry, which had terms of reference requiring it to inquire into institutions and to review current systems of child care and protection, resulted in 14 allegations being referred to police for investigation. While the report found there had been incidents of 'unsafe, improper and unlawful' behaviour, it could not make detailed findings due to 'the passage of time, the fact that a number of alleged perpetrators are now deceased, and the difficulty in obtaining corroborative evidence'.[5]

6.83 The Committee noted also, but only in a general way, the experiences of the Irish Commission to Inquire into Child Abuse, which ran from 2000 until June 2009. The timeframe for this inquiry was extended by a number of legal challenges and reviews, which also led to the names of alleged perpetrators being suppressed in the inquiry's final report. While the Committee is not aware of the total cost of the inquiry, the legal nature of its proceedings necessitated a large staff, including a significant number of senior legal counsel.[6] It therefore appears likely that the total cost of the inquiry would have been substantial.

6.84 The Committee notes that its own reports into children in institutional care, and the work of advocacy and support bodies, have also contributed to the improvement of both State and national standards and strategies for child protection.

6.85 Beyond the ability of State judicial inquiries to inform the reform and development of appropriate standards and systems for child protection, the Committee is acutely conscious that the primary concern for many former child migrants and care leavers in supporting the holding of judicial inquiries is the desire to see justice done through the naming, charging and prosecution of perpetrators of historical abuse of children. While the Committee supports all care leavers in this respect, it believes that there is only modest potential for successful prosecutions to arise from the conduct of judicial inquiries. The Committee's conclusion on this question was based on considerations of the outcomes of previous inquiries, the significant passage of time since the abuse and neglect complained of, and the numerous legal barriers that would still confront any criminal or civil claims arising from information obtained through judicial inquiry.

6.86 Given the Committee's views that the holding of State judicial inquiries would be unlikely to significantly further inform the reform and development of child protection systems in Australia, or result in significant number of successful

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4 Government of South Australia website, 'Ministerial Statement: Mullighan Inquiry into Children in State Care – Allegations of sexual abuse and death', 1 April 2008, http://www.ministers.sa.gov.au/news.php?id=2941&print=1, accessed 23 June 2009.

5 Forde Inquiry Report, *Commission of Inquiry into Abuse of Children in Queensland Institutions*, http://www.communities.qld.gov.au/community/redress-scheme/documents/forde_comminquiry.pdfacces, p. 276, accessed 23 June 2006.

6 Commission to inquire into Child Abuse website, http://www.childabusecommission.ie/index.html, accessed 23 June 2009.

prosecutions for historical abuse and assault, the Committee decided that it would not re-endorse recommendation of the *Lost Innocents* report.

6.87 The Committee heard contrasting opinions on the issue of holding a Royal Commission into State, charitable and church-run institutions, as recommended by the *Forgotten Australians* report. While most submitters and witnesses agreed that churches and other institutions had failed to meet the conditions of transparency and cooperation described in the Committee's original recommendation, there was disagreement on whether the expected expense and time taken by the holding of a Royal Commission was justified by the likely number of successful prosecutions that it might produce. Supporters of an inquiry, as above, emphasised the desire for justice of those who as children were abused and assaulted while in institutional or out-of-home care. Those who did not support a Royal Commission emphasised potentially limited outcomes, and the services and support for care leavers that could instead be provided with that funding.

6.88 As in the making of the original recommendation, there was a range of views within the Committee on this question and, conscious of the importance of this particular issue to many care leavers, the arguments put forward were carefully considered. The Committee's conclusion was ultimately based on an assessment of the likely success of a Royal Commission in achieving successful exposure and prosecution of perpetrators of criminal acts. The Committee senses that there may be unrealistic expectations held by many as to the outcome of a Royal Commission. Despite the wider powers of royal commissions, the Committee considers that any such inquiry would face the same barriers to success as outlined above in relation to judicial inquiries, and accordingly would be unlikely to produce outcomes that would justify the significant expenditure of both time and finances. Even so, while considering that valuable resources could be more beneficially expended for care leavers, the Committee notes that its views on a Royal Commission remain subject to the continuing developments with issues related to the recommendations of the *Forgotten Australians* reports. The Committee will maintain its interest in the performance of governments and non-government bodies in implementing the recommendations of the report, particularly as they relate to opportunities for redress for care leavers.

6.89 Finally, the Committee notes that the effort to identify and successfully prosecute perpetrators of historical sexual and physical abuse of children must remain a goal and commitment of all Australian governments. The Committee is encouraged that prosecutions can be successfully undertaken based on the very recent successful prosecutions against a Salvation Army officer in South Australia and a Christian Brother in Victoria for abuse of children in homes more than 30 years ago that both resulted in jail terms. Evidence to the inquiry suggested that certain barriers to the prosecution of historical sexual and physical abuse of children could be at least partly addressed by ensuring that specialist police units with expertise in this area exist in each State and Territory. Indeed, the police forces of some States and Territories may already have specialist areas that could be expanded to deal with crimes of this nature. The Committee heard that the use of centralised and expert groups for dealing with

historical abuse complaints could both facilitate the laying of complaints by victims and increase the potential for repeat offending and corroborative material to be identified. The coordination of such units nationally would of course be necessary to maximise the effectiveness of this approach.

6.90 The Committee notes that a fuller assessment of such proposals is needed as part of developing a national police policy on historical crimes of sexual and physical abuse of children in care.

Recommendation 15

6.91 The Committee recommends that the Ministerial Council for Police and Emergency Management (Police) develop and implement a national policy on the prosecution of, and data collection and sharing about, historical crimes of sexual and physical abuse of children in care; and that the establishment or further development of specialist State police units be considered as part of this policy development process.

Memorials and remembrance

6.92 In relation to the erection of suitable memorials for both former child migrants and care leavers more generally the Committee was pleased that states have provided such sites for former child migrants, and substantial progress has been made in relation to care leaver memorials. The Committee notes that, despite some frustration at the sometimes lengthy timeframes involved for appropriate consultation over, and design and siting of, memorials, the value of these efforts was widely recognised and appreciated by care leavers.

6.93 The Committee was impressed by the institution of an annual remembrance day for care leavers in Queensland, which appropriately occurs during Child Protection Week in that State (September). Recognising the importance of such symbolic events to care leavers, and noting their ability to widely publicise care leavers and related issues to the community at large, the Committee agreed that it would beneficial for the other States to institute similar occasions.

Recommendation 16

6.94 The Committee recommends that the States consider establishing an annual remembrance day for care leavers, similar to that held by Queensland each year during Child Protection Week.

APPENDIX 1

LIST OF PUBLIC SUBMISSIONS, TABLED DOCUMENTS AND ADDITIONAL INFORMATION AUTHORISED FOR PUBLICATION BY THE COMMITTEE

1 Waite, Mrs C

2 Origins (NSW)

3 CBERS Consultancy (WA)

4 Department of Families, Housing, Community Services and Indigenous Affairs (ACT)

Supplementary information

- Additional information arising from the hearing 8.4.09, received 22.6.09

5 Positive Justice Centre (NSW)

Supplementary information

- Additional information received following hearing 7.4.09, dated 12.5.09

6 Benevolent Society (NSW)

7 Tasmanian Government (TAS)

Supplementary information

- Response to question on notice arising from the hearing 8.4.09, dated 5.5.09

8 Northern Territory Government (NT)

9 Barnardos Australia (NSW)

Supplementary information

- Additional information following the hearing 7.4.09 relating to the deportation of a child migrant, dated 14.4.09

10 Alliance for Forgotten Australians (ACT)

Supplementary information

- Response to questions on notice arising from hearing 30.3.09, received 29.4.09
- Supplementary submission received 27.5.09
- Additional information received 9.6.09

11 Western Australian Department for Child Protection (WA)

12 Western Australian Department for Communities (WA)

Supplementary information

- RedressWA Guidelines, provided at hearing 31.3.09
- List of Western Australian Redress referrals, received 31.3.09
- Additional information relating to the consultative committee on residential child care in Western Australia, received 14.4.09

13 Forde Foundation Board of Advice (QLD)

Supplementary information

- Additional information relating to grants and the Oral Health Agreement with the QLD Government requested at 6.4.09 hearing, received 9.4.09
- Response to comments made at the public hearing 6.4.09, received 11.5.09

14 Broken Rights (Australia) Collective Inc (VIC)

15 Queensland Government (QLD)

16 Golding, Mr Frank (VIC)

Supplementary information

- Additional information relating to accessing records and redress schemes, received 1.4.09 and 11.4.09

17 Fairbridge Foundation, The (NSW)

18 Sdrinis, Ms Angela (VIC)

19 ACT Government (ACT)

20 Harrison, Mr Garry

Supplementary information

- Supplementary submissions dated 6.5.09 and 23.5.09

21 CLAN Care Leavers of Australia Network (NSW)

Supplementary information

- Call log summary from December 08 to March 09, received 2.4.09

22 Minister for Community Services, Victoria (VIC)

23 Child Migrants Trust (VIC)

Supplementary information

- Additional information requested at hearing 8.4.09, dated 27.4.09

24 New South Wales Government (NSW)

Supplementary information

- Additional information requested at hearing 7.4.09, dated 29.5.09

25 The Healing Way for Forgotten Australians Inc (NSW)

Supplementary information

- Additional information received 19.2.08 and dated 26.3.09
- Supplementary submission dated 10.4.09

26 Marian, Ms Cherie (VIC)

27 Department of Immigration and Citizenship (ACT)

Supplementary information

- Responses to questions arising from the hearing 8.4.09, dated 18.6.09

28 Association of Child Welfare Agencies (NSW)

Supplementary information

- List of members of the ACWA Forgotten Australians Working Group and list of non-member agencies, received 11.5.09

29 Wings for Survivors (VIC)

Supplementary information

- Letter from online member, received 19.3.09

30 Government of South Australia (SA)

31 Brownlee, Ms Mary (NSW)

Supplementary information

- Supplementary submission received 19.3.09

32 Treweek, Ms Susan (QLD)

33 Micah Projects Inc (QLD)

34 Bradwell, Mr Wayne

35 Collins, Mr Michael

36 Luthy, Mr James

Supplementary information

- Additional information following hearing 6.4.09, dated 20.5.09

37 Bateman, Ms Rosemary (QLD)

38 Forrest, Mr Anthony (SA)

Supplementary information

- Supplementary submission, received 13.5.09
- Additional information received 18.5.09
- Paper by Enda O'Callaghan, 'Compensation, Reparations and Redress', 2008, received 22.5.09

39 Harrison, Dr S (NSW)

40 Marson, Mr Damien (SA)

Supplementary information

- DVD explaining personal life experiences, received 13.5.09

41 McNair, Mr Brian (VIC)

42 Fawcett, Ms Joan (VIC)

43 Dekker, Ms Muriel (QLD)

44 Meekins, Mr Ki (SA)

45 Name withheld (VIC)

46 Lee, Ms Rosemarie

47 Beauchamp, Mr Carl (NSW)

48 Mancuso, Ms Diane (NSW)

49 Syed-Waasdorp, Mrs Lana (QLD)

Supplementary information

- Note commenting on evidence given at hearing on 6.4.09

50 Adams, Ms Carol

51 House, Mr Robert (VIC)

52 Caron (NSW)

53 Parker, Mr Kevin (VIC)

54 de Bussey, Ms Rozlyn (ACT)

55 Djuric, Ms Bonney (NSW)

Supplementary information

- Copy of *14 Years of Hell: An anthology of the Hay Girls Institution 1961-1974*, compiled by Bonney Djuric, 2008 provided at hearing 7.4.09

56 Dodson, Ms Cheryl

57 Sloan, Mr Daryl (VIC)

58 Windell, Ms Grace (NSW)

59 Lovely, Ms Gloria (QLD)

60 Flowerday, Ms Norma (VIC)

61 Brown, Mr Micheal John (NSW)

62 Porter, Mr Warren (SA)

63 Campbell, Ms Cheryl (QLD)

64 Walsh, Mr John (QLD)

Additional Information

Catholic Social Services Australia

List of Catholic run orphanages and homes referred to during the opening statement at the hearing on 7.4.09

Centre for Excellence in Child and Family Welfare

Provided at hearing 30.3.09:

- *Investing for Success: The economics of supporting young people leaving care*, Monograph Number 5 2005
- *Its not too late to care: Report on the research into the outcomes for people brought up in institutional care in Victoria*, Monograph Number 17 2008

Historical Abuse Network (HAN)

Slide copies of presentation given at hearing 6.4.09

Professor Cathy Humphreys, Who Am I? project leader

Who am I? project background information and web directory CD, provided at hearing 30.3.09

Pollard, Mr John

Documents relating to vaccines being given to children in institutions that could have been contaminated and that children were used for experimentation, provided in Perth 31.3.09.

APPENDIX 2

WITNESSES WHO APPEARED BEFORE THE COMMITTEE AT PUBLIC HEARINGS

Monday, 30 March 2009
St James Court Conference Centre, West Melbourne

Committee Members in attendance

Senator Claire Moore (Chair)
Senator Rachel Siewert (Deputy Chair)
Senator Catryna Bilyk
Senator Sarah Hanson-Young
Senator Gary Humphries

Witnesses

Ms Angela Sdrinis, Ryan Carlisle Thomas Lawyers

Mr Frank Golding, National Vice-President of Care Leavers of Australia Network (CLAN)

Alfred Felton Research Program

Professor Cathy Humphreys, Alfred Felton Chair of Child and Family Welfare

Professor Shurlee Swain, Honours/postgraduate co-ordinator, School of Arts and Sciences (Vic), Australian Catholic University

Mr Gavan McCarthy, Director, University of Melbourne eScholarship Research Centre

Ms Rachel Tropea, Archivist, eScholarship Research Centre, University of Melbourne

Centre for Excellence in Child and Family Welfare

Ms Coleen Clare, Chief Executive Officer

Wings for Survivors

Ms Deborah Findlay, Member

Ms Michele Greaves, Member

Mr Mark Kelly, Member

Ms Susan Treweek, Member

Broken Rites (Australia) Collective Inc

Dr Wayne Chamley, Treasurer

Alliance for Forgotten Australians

Ms Caroline Caroll, Chair

Vanish Inc
Ms Maureen Cleary, Manager

Tuesday, 31 March 2009
The Marque Hotel, Perth

Committee Members in attendance
Senator Claire Moore (Chair)
Senator Rachel Siewert (Deputy Chair)
Senator Gary Humphries

Witnesses

CBERS Consultancy
Dr Philippa White, Coordinator
Dr Deborah Rosser, Consultant

Mr Andrew Murray, former Senator

Alliance for Forgotten Australians
Associate Professor Maria Harries, Associate Member and private capacity
Mr Laurie Humphreys, Representative

Western Australian Department for Communities
Ms Stephanie Withers, Executive Director, Redress WA
Dr Marilyn Rock, Senior Redress Officer, Redress WA
Ms Eileen O'Reilly, Senior Redress Officer, Redress WA
Mr Peter Bayman, Senior Legal Officer

Monday, 6 April 2009
The Greek Club and Conference Centre, South Brisbane

Committee Members in attendance
Senator Claire Moore (Chair)
Senator Sue Boyce
Senator Mark Furner
Senator Gary Humphries

Witnesses

Forde Foundation Board of Advice
Mr Terry Sullivan, Former Chair
Mr Errol Evans, Deputy Chair

Historical Abuse Network (HAN)

Ms Grace Hegarty
Ms Gloria Lovely
Ms Colleen Stevenson
Ms Lana Syed-Wassdorp
Ms Diane Tronc
Ms Karen Walsh

Esther Centre
Ms Karyn Walsh, Coordinator

Aftercare Resource Centre, Relationships Australia

Ms Rebecca Ketton, Manager
Ms Susan Kelly, Counsellor
Mr Barry Walton, Director of State Funded Programs

Mr Jim Luthy

Mr Wayne Bradwell

Ms Sue Treweek

Mr Michael Collins

Queensland Government, Department of Communities
Mr Mark Francis, Executive Director
Ms Robyn Etherington, Forde Officer

Short personal statements were provided by:

Ms Lee Ekeberg
Mrs Lana Syed-Waasdorp
Ms Diane Tronc
Ms Marlene Wilson

The hearing concluded with a song performed by Ms Jacinta Burr

Tuesday,7 April 2009
Bankstown Sports and Event Centre, Bankstown

Committee Members in attendance

Senator Claire Moore (Chair)
Senator Don Farrell
Senator Mitch Fifield

Witnesses

Positive Justice Centre
Mr John Murray, Founding Member

The Healing Way for Forgotten Australians
Ms Mary Brownlee, Founding Member
Mr Lawrie Higgins, Founding Member

Round table session:

Association of Child Welfare Agencies
Mr Andrew McCallum, Chairman

Benevolent Society

Ms Annette Michaux, General Manager Social Policy and Research
Ms Janet Henegan, Manager, Post Adoption Resource Centre

United Protestant Association of NSW
Mr Graham Hercus, Aftercare Support

Barnardos Australia
Mr Bill Hoyles, Senior Manager, Youth Affairs and Aftercare

The Fairbridge Foundation
Mr John Kennedy, Chairman of Council

Care Leavers of Australia Network (CLAN)
Ms Leonie Sheedy, President
Dr Joanna Penglase, Co-founder

Aftercare Resource Centre (ARC)
Ms Wendy Scollay, Coordinator
Ms Julie Holt, Counsellor

Catholic Social Services Australia
Mr Frank Quinlan, Executive Director

New South Wales Government

Ms Linda Mallett, A/Deputy Director-General, Department of Community Services

Ms Danielle Woolley, Director, Out-of-Home Care Policy, Department of Community Services

Wednesday,8 April 2009
Parliament House, Canberra

Committee Members in attendance

Senator Claire Moore (Chair)
Senator Sue Boyce
Senator Gary Humphries

Witnesses

The International Association of Former Child Migrants And Their Families

Mr Norman Johnston, President

Mr Harold Haig, Secretary

Child Migrants Trust

Ms Margaret Humphreys OAM, International Director

Mr Ian Thwaites, Service Manager

Mr Ted Mullighan QC, Former South Australian Commissioner of Inquiry *(via teleconference)*

South Australian Government *(via teleconference)*

Mr Steve Ramsey, Executive Director, Families SA

Ms Julie Petersen, Manager, Policy and Strategy, Guardianship and Alternative Care Directorate, Department for Families and Communities

Department of Immigration and Citizenship

Mr Peter Templeton, Assistant Secretary, Settlement Branch

Ms Sophie Montgomery, Director, Settlement Planning and Information

Department of Families, Housing, Community Services and Indigenous Affairs

Ms Cate McKenzie, Group Manager, Women and Children's Policy

Ms Allyson Essex, Branch Manager

Tasmanian Government *(via teleconference)*

Ms Alison Jacob, Deputy Secretary, Department of Health and Human Services

Ms Leica Wagner, Manager Abuse of Children in State Care

Ms Una Hobday, Manager, Adoption & Permanency Services

VISITS BY THE COMMITTEE

VISIT TO LOTUS PLACE, Brisbane
Monday, 6 April 2009

The Committee visited Lotus Place which provides a drop in centre and houses HAN, the Esther Centre, ARC and the Forde Foundation Board of Advice in the one premises.

VISIT TO CLAN OFFICE, Sydney
Tuesday, 7 April 2009

The Committee visited the CLAN office in Chapel Road, Bankstown, and inspected the National Orphanage Museum and CLAN Library.