

Senate Legal and Constitutional Affairs References Committee
ANSWERS TO QUESTIONS ON NOTICE
FAMILIES, HOUSING, COMMUNITY SERVICES AND
INDIGENOUS AFFAIRS PORTFOLIO
Government Compensation Inquiry

Date: 29 October 2010

Question No: 1

Hansard Page: 9

Senator Crossin asked:

Who takes responsibility if you are a forgotten Australian and you live in the Northern Territory?

Answer:

The Senate Community Affairs References Committee did not report any evidence of institutions in the Northern Territory during their Inquiry. The Committee's Report, *'Forgotten Australians – A report on Australians who experienced institutional or out-of-home care as children'*, 2004 does not report on nor contain recommendations relating to the Northern Territory.

Further, available evidence as provided by the Northern Territory Government in a submission to the Senate Community Affairs Committee into the implementation of the recommendations in the *'Lost Innocents: Righting the Record'* and *'Forgotten Australians: A report on Australians who Experienced Institutional or Out-of-Home Care as Children'* is that no British child migrants were placed in the Northern Territory.

Forgotten Australians and former child migrants who are now residents in the Northern Territory but were in institutional care in other states are, generally, able to access relevant services and redress schemes in the states where they were in care.

The Australian Government's new national Find and Connect Service will be available in all states and territories for Forgotten Australians and child migrant no matter where they were in care. The National Find and Connect Service will provide an Australia-wide, coordinated, family tracing and support service for Forgotten Australians and former child migrants, where possible, to locate their personal records and to reunite with their families.

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Question No: 2

Hansard Page: 9

Senator Siewert asked:

Do you have an approach or even some guidelines that have been developed about what the Commonwealth would consider best practice so that all Australians have similar access?

Answer:

No. The Commonwealth considers that redress is a matter for the states and territories.

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Question No: 3

Hansard Page: 9

Senator Siewert asked:

I am wondering if there is an issue [changes in the WA Redress Scheme] that you would look into. Have members of the community raised that directly with the Commonwealth?

Answer:

- a) The Commonwealth considers that redress is a matter for the states.
- b) Yes, we have referred correspondents to the Western Australian Minister responsible for the scheme.

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Question No: 4

Hansard Page: 10

Senator Siewert asked:

Within similar sorts of schemes, does the Commonwealth look at the conditions within the schemes and across the schemes – for example, the guidelines and sorts of things are taken into account in schemes relating to stolen wages, children in care, forgotten Australians and of course the stolen generation and the reparation scheme in Tasmania?

Answer:

No. The Commonwealth considers this to be matter for the states and territories.

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Question No: 5

Hansard Page: 10

Senator Crossin asked:

[My] question goes to whether or not FaHCSIA, or even Finance and Deregulation, have looked at who is in the position to compensate people from the Northern Territory if they are from the stolen generations ... But with respect to, again, Northern Territory people, because the Commonwealth has had responsibility for the Northern Territory prior to 1978, I am assuming the answer to your question must be that it would have to be the Commonwealth that would have any responsibility for an act of compensation or payment of compensation with respect to those people.

Answer:

The Australia Government's position is that assistance is provided to the Stolen Generations in ways other than providing monetary compensation.

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Question No: 6

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Senator Crossin asked:

Ms Essex, have you actually looked at the adequacy of the compensation payments in the Tasmanian scheme? Does the Commonwealth have a view about that or about how successfully that scheme is operating?

Answer:

No, this is a matter for the Tasmanian Government.

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Question No: 7

Hansard Page: 11

Senator Crossin asked:

So the big gaping hole then would be who looks after any compensation for people in the Northern Territory and/or the ACT, but particularly the Northern Territory?

Answer:

The Senate Community Affairs References Committee did not report any evidence of institutions in the Northern Territory during their Inquiry. The Committee's Report *'Forgotten Australians – A report on Australians who experienced institutional or out-of-home care as children'*, 2004 does not report on nor contain recommendations relating to the Northern Territory or the Australian Capital Territory.

Further, available evidence as provided by the Northern Territory Government in a submission to the Senate Community Affairs Committee into the implementation of the Recommendations in the *'Lost Innocents: Righting the Record'* and *'Forgotten Australians: A report on Australians who Experienced Institutional or Out-of-Home Care as Children'* is that no British child migrants were placed in the Northern Territory.

Forgotten Australians and former child migrants who are now residents in the Northern Territory or the Australian Capital Territory but were in institutional care in other states are, generally, able to access relevant services and redress schemes in the states where they were in care.

The Australian Government's new national Find and Connect Service will be available in all states and territories for Forgotten Australians and child migrant no matter where they were in care. The National Find and Connect Service will provide an Australia-wide, coordinated, family tracing and support service for Forgotten Australians and former child migrants, where possible, to locate their personal records and to reunite with their families.

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Question No: 8

Hansard Page: 11

Senator Siewert asked:

I would like to build on that because the issue has come up with stolen wages as well. Could you bear in mind also compensation generally, and absolutely for the stolen generation; but also there are former child migrants, forgotten Australians and stolen wages – so across the board.

Answer:

The Senate Community Affairs References Committee did not report any evidence of institutions in the Northern Territory during their Inquiry. The Committee's Report *'Forgotten Australians – A report on Australians who experienced institutional or out-of-home care as children'*, 2004 does not report on nor contain recommendations relating to the Northern Territory.

Further, available evidence as provided by the Northern Territory Government in a submission to the Senate Community Affairs Committee into the implementation of the Recommendations in the *'Lost Innocents: Righting the Record'* and *'Forgotten Australians: A report on Australians who Experienced Institutional or Out-of-Home Care as Children'* is that no British child migrants were placed in the Northern Territory.

The Australian Government's policy position is that assistance is provided to the Stolen Generations in ways other than providing monetary compensation.

The Government has carefully considered the Senate Inquiry report, *Unfinished Business: Indigenous stolen wages*, and all the recommendations made by the Committee. As advised in the Australian Government's response to this report, the Government is not in a position to divert substantial resources to a general investigation of the wages and entitlements that may have been withheld from Indigenous workers, but will consider any substantive claims from Indigenous Australians who came within the Commonwealth's jurisdiction, in the Northern Territory and the Australian Capital Territory, during the relevant period.

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Question No: 9

Hansard Page: 15

Senator Barnett asked:

In Tasmania we have a huge issue at the moment with children in state care. You would be aware of the concerns that have been raised as a result of a recent inquiry about a young girl who, sadly, was in state care and who was used as a sex vehicle by up to 200 males. Are you familiar with that case? What rights does she have to compensation? Where would she go? What rights and what legislative mechanism would apply to her in that situation?

Answer:

The Department is not aware of any specific legislation in Tasmania pertaining to compensation for victims of sexual abuse that occurs while they are under state care.

Claims for compensation in these matters may fall within the scope of the Tasmanian Victims of Crime Assistance Act 1976.

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Question No: 10

Hansard Page: 15

Senator Barnett asked:

Hypothetically, in relation to sexual abuse in state care, does every state have a different system that applies to compensation for those who have suffered sexual abuse in state care? ... My question is: is there particularly legislation, to your knowledge, that applies for that or would this be a simple discretionary matter for the state or territory government in each case?

Answer:

The Department considers that addressing compensation claims relating to sexual abuse that occurs while the child is in state care is an individual state and territory responsibility. Please find a list of related state and territory legislation:

Tasmania

The Department is not aware of any specific legislation in Tasmania pertaining to compensation for victims of sexual abuse that occurs while they are under state care.

Claims for compensation in these matters may fall within the scope of the Tasmanian Victims of Crime Assistance Act 1976.

South Australia

A recent amendment made to the Victims of Crime Act 2001 in South Australia provides specific scope for compensation claims regarding sexual abuse whilst under state care.

This amendment was introduced via the Victims Care Amendment Bill 2009. (House of Assembly – no. 166)

Victoria

The Department is not aware of any specific legislation in Victoria pertaining to compensation for victims of sexual abuse that occurs whilst they are under state care.

Claims for compensation in these matters may fall within the scope of the Victorian Victims of Crime Assistance Act 1996.

New South Wales

The Department is not aware of any specific legislation in New South Wales pertaining to compensation for victims of sexual abuse that occurs whilst they are under state care.

Claims for compensation in these matters may fall within the scope of the New South Wales Victims Rights Act 1996 and/or the Victims Support and Rehabilitation Act 1996.

Western Australia

The Department is not aware of any specific legislation in Western Australia pertaining to compensation for victims of sexual abuse that occurs whilst they are under state care.

Claims for compensation in these matters may fall within the scope of the Western Australian Criminal Injuries Compensation Act 2003.

Northern Territory

The Department is not aware of any specific legislation in the Northern Territory pertaining to compensation for victims of sexual abuse that occurs whilst they are under state care.

Claims for compensation in these matters may fall within the scope of the Northern Territory Victims of Crime Assistance Act 2006.

Australian Capital Territory

The Department is not aware of any specific legislation in the Australian Capital Territory pertaining to compensation for victims of sexual abuse that occurs whilst they are under state care.

Claims for compensation in these matters may fall within the scope of the Australian Capital Territory Criminal Injuries Compensation ACT 1992 and/or the Victims of Crime (Financial Assistance) Act 1983.

Queensland

The Department is not aware of any specific legislation in Queensland pertaining to compensation for victims of sexual abuse that occurs whilst they are under state care.

Claims for compensation in these matters may fall within the scope of the Queensland Victims of Crime Assistance Act 2009.