

11 November 2010

Senator G Barnett

Chair

Senate Legal and Constitutional Affairs References Committee

### **Inquiry into Government Compensation Payments – Question on Notice**

Thank you for the opportunity to give evidence to the Committee on Tuesday 2 November for the Committee's inquiry into Government Compensation Payments.

One of the overriding questions is whether there should be a national scheme for compensation payments. CLAN, with whom I shared the time for giving evidence, is indeed in favour of a national scheme. CLAN's evidence to the Committee was focused on the issue of compensation for institutional child abuse as documented in the *Forgotten Australians* report and how that might be facilitated; rather than all the areas that fall within the Committee's terms of reference which may raise other considerations.

Senator Parry asked how CLAN saw the states contributing to a national scheme – whether it would be in terms of general population or in terms of the number of people that suffered abuse in each jurisdiction (Hansard, p 11) – or whether there is another model that should be considered.

We have not developed a preferred model in this area – rather CLAN has simply argued for the need for compensation and the recognition that responsibility lies across levels of government and also involves a range of other non government agencies (churches and other agencies). Consideration needs to be given as to how all these groups might effectively contribute. We therefore agree with the following conclusion from the *Forgotten Australians* report:

8.122 The Committee believes that the scheme should be funded by contributions by the Commonwealth and State Governments and the Churches and agencies directly involved in the implementation and administration of institutional and out-of-home care arrangements. The Committee considers that, while the Commonwealth did not have a direct role in administering institutional care arrangements, it should contribute to the scheme as an act of recompense on behalf of the nation as a whole. The Committee believes that State Governments should contribute as they were directly involved in the administration of institutional care arrangements. The Committee also firmly believes that the Churches and agencies should contribute to the scheme to share the cost burden and as a form of acknowledgment of their collective role in the failure of their duty of care.

8.123 The relative contribution of the various parties to the scheme should be based on their proportionate liability which, as discussed previously in this chapter, should take into account such factors as the relative roles of the respective groups in the provision of institutional care; their ability to pay; and the degree to which they are already providing compensation or funding services for care leavers.

I have formulated this response to the question on notice in consultation with CLAN who are in agreement with the contents of this letter.

Please do not hesitate to contact me if you have any further questions.

Yours faithfully

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