

Review of Government Compensation Payments

Submission by the Centre for Excellence in Child and Family Welfare on behalf of the Victorian “Forgotten Australians Report” Sector Working Group

May 2010

Background

The Victorian “Forgotten Australians Report” Sector Working Group was established in 2004 under the auspices of the Centre for Excellence in Child and Family Welfare to examine the recommendations of the Senate Community Affairs Committee’s Report on “Forgotten Australians” (2004). The subsequent 2009 follow-up Report has now also become part of the Group’s deliberations. Its work since 2004 has included scoping the impact of the recommendations, identifying work to be undertaken and resources essential to implement the recommendations. It has been instrumental in ensuring the establishment in Victoria of the DHS-funded support service for Forgotten Australians “Open Place”. The Group’s membership consists of Forgotten Australians representing AFA and CLAN, the Centre for Excellence in Child and Family Welfare, alongside representatives from Community Service Organisations (who are or have been providers of out of home care) and the Department of Human Services (DHS).

“It’s not too late to care”, Centre for Excellence in Child and Family Welfare, 2008

In 2008 the Centre for Excellence published its research report “It’s not too late to care”, commissioned by the Sector Working Group. The project sought to quantify the life outcomes for care leavers in Victoria and compare them with the life outcomes of people in the general population in the same age brackets. A structured survey was devised, and 77 people who had experienced Victorian institutional care participated. The research findings clearly showed that the long term negative impacts of early life in institutional care were evident across a range of life outcomes, including health, education, income, employment and personal relationships.

The report concluded with a series of recommendations. The last of these was “...that the [Victorian] Government establish an appropriate financial redress scheme following the example set by Tasmania, Queensland, Western Australia and South Australia to acknowledge the abuse and neglect suffered by the many people who lived in institutional care in Victoria.” (p. 41, It’s not too late to care)

Issues

The existence and nature of reparation and redress schemes for “Forgotten Australians” throughout the country are inconsistent. The four States with a current or now-closed redress scheme all operated them in different ways, with different criteria, different timeframes and different amounts of redress offered.

Tasmania’s scheme closed in 2005, but due to the number of care leavers who missed out, the scheme reopened for 3 months in 2008. The maximum payment to an individual was capped at \$60,000.

The Queensland Government established a number of support services for care leavers in response to the Forde inquiry into the abuse of children in institutional care in Queensland. In 2007 the government established a redress scheme which offered two levels of payment to claimants - \$7,000 based on determining the claimant’s eligibility by examining their records; access to a further \$33,000 if a claimant could demonstrate serious abuse and neglect while in care. This scheme was in operation from October 2007 – June 2008.

In late 2007 the Western Australian Government allocated \$114M for a redress scheme. Initially it was announced that care leavers could claim between \$10,000 and \$80,000 depending on the level of abuse suffered. In early 2010 the Western Australian Government halved the minimum

payment to \$5000 and significantly reduced the maximum to \$45,000 – to the outrage of care leavers around the country.

Following the release of the Mulligan Report in South Australia, the Government there established a version of redress for its “Forgotten Australians” by enabling them to access the Victims of Crime Fund. Eligibility for this is limited to those individuals who suffered sexual abuse while in institutional care, and it is capped at \$50,000.

Clearly the time is well overdue for the Victorian and New South Wales Governments to determine what is required by way of redress for their “Forgotten Australians”. In Victoria the Centre for Excellence has lobbied regularly to government to consider the establishment of a redress scheme that contains the best elements of other schemes – both within Australia and internationally. The Victorian Government’s position, which provides funded services and possible legal redress to claimants, ignores the plight of Forgotten Australians for whom services are not adequate and who feel either unable or disinclined to take legal action.

Recommendations

While we acknowledge that the enquiry by the Legal and Constitutional Affairs Committee does not specifically plan to take into account compensation issues related to “Forgotten Australians”, it is hoped that a federally based review has the power to acknowledge and recommend the need for consistency in redress schemes for “Forgotten Australians” around the country. Neglect and abuse endured while in the “care” of the State should not be dismissed only as an issue for individual States – this is a national issue, as evidenced by Prime Minister Rudd’s apology and some of the promises he made as part of that apology.

We would also like to take this opportunity to express our strong support for a just and fair redress scheme for Victoria’s “Forgotten Australians”. In our view it is unacceptable that one of our largest States is still to see the need for such a scheme.