

**COMMONWEALTH GOVERNMENT RESPONSE
TO**

Lost Innocents: Righting the Record

**The report of the Community Affairs
References Committee on
child migration**

13 May 2002

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The report of the Community Affairs References Committee on child migration

The government welcomes this report by the Community Affairs References Committee as a sensitive, comprehensive and insightful appraisal of the child migration schemes and child migrants' experiences in Australia.

The government acknowledges the Committee's concerns to give former child migrants an opportunity to "tell their story" alongside the various institutions which contributed to the Senate Inquiry. Part of coming to terms with the legacy of these schemes is acknowledging both the positive and regrettable practices of the past. The government concurs with the Committee in its hope that this will contribute to the healing process for those who have conflicting or painful memories of the schemes.

The legacy of the child migration schemes must be addressed. An important and necessary follow on from this report is that the needs of child migrants continue to be recognised by government agencies and that they receive appropriate support and assistance, as they need it.

In responding to this report we understand that former child migrants are not a homogenous group and their needs for support or assistance may vary considerably. Some may be happily settled and not want or need assistance, some may be living abroad, or deceased. Others may have been scarred by their experiences and have suffered long-lasting effects throughout their lives.

The Commonwealth government's focus therefore is on practical support and assistance, with a package of key measures: notably a contribution towards a new travel fund for former child migrants; maintaining funding for family tracing and counselling services; and contributing to a memorial(s) to recognise former child migrants in the Australian community. This is in response to the Committee's strong emphasis on the importance of family tracing services, counselling and public recognition of child migrants. These are key initiatives the Commonwealth can be involved in to acknowledge its past role in the schemes.

Some recommendations are clearly directed to State governments or sending and receiving agencies. The Commonwealth Government urges State governments and other agencies involved to respond in spirit and in practice to the Committee's recommendations. The Commonwealth Government looks forward to working with these agencies cooperatively and will raise these recommendations further with State governments, as well as referring the Committee's report and this response to the UK government.

Finally, it is acknowledged that State governments, receiving agencies and a variety of archival institutions have already taken steps to support child migrants in various ways and assist them to rebuild their family histories. The government considers

that this report will focus efforts to build on these positive steps, (some of which are referred to in this report), and urges all organisations involved to do so.

**GOVERNMENT RESPONSE TO THE
COMMUNITY AFFAIRS REFERENCES COMMITTEE REPORT:**

LOST INNOCENTS: RIGHTING THE RECORD

RECOMMENDATIONS

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.

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.

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.

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.

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.

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.

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.

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.

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).

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.

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.

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.

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).

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.

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.

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.

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.

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

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.

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.

Recommendation 20

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

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

- (c) provide for two further visits but with a reduced level of assistance, limited to the payment of airfares and associated travel expenses;*
- (d) provide, in exceptional circumstances, travel funding for a spouse, child or other person as an accompanying carer; and*
- (e) 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.

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.

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.

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.

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.

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).

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.

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.

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.

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.

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.

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.

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.