



Australian Government

AUSTRALIAN GOVERNMENT RESPONSE

to

The Senate Legal and Constitutional Affairs References Committee Report

Review of Government Compensation Payments, December 2010

INTRODUCTION

The Government welcomes the Senate Legal and Constitutional Affairs References Committee's *Review of Government Compensation Payments*. It thanks the committee members for their work and their focus on redress schemes for people who were in care as children during the 20th century and other government discretionary payment schemes.

On 16 November 2009, the then Prime Minister, on behalf of the nation delivered an Apology to the Forgotten Australians and former child migrants, as part of initiating the healing process. As part of the Apology, the Australian Government announced a range of initiatives to provide support to Forgotten Australians and former child migrants, collectively known as care leavers, including a new Find and Connect service.

The Australian Government has committed \$26.5 million over four years to deliver the new national Find and Connect Service. This new service will provide:

- A national website and single online access point to help care leavers find records held by past care providers and government agencies;
- A national 1800 telephone number for care leavers to call if they want to speak with trained staff to help them locate their personal records;
- A national network of specialised search and support services to help care leavers locate and access personal records and, where possible, reunite with family members; and
- Counselling support services specifically for care leavers, from appropriately trained and skills providers, to provide support for care leavers as they trace their families.

The Government is designing this service in consultation with care leavers. It believes that, together with existing services, the Find and Connect service will contribute to an effective network of support that helps care leavers deal with the impacts of their past experiences in the care system.

All children deserve to be cared for in a safe, loving environment, enabling them to achieve happiness and success throughout their lives. It is unacceptable and incomprehensible that they are given anything less. The Australian Government, together with State and Territory Governments and the non-government sector, has developed and begun implementing the National Framework for Protecting Australia's Children.

RESPONSE TO RECOMMENDATIONS

The committee made seven recommendations. The Government's response to the recommendations is provided below.

Recommendation 1

The committee recommends that the Queensland, South Australian, Tasmanian and Western Australian Governments review their redress schemes relating to children in institutional care to ensure:

- a consistent and transparent approach to the quantum of compensation provided;
- consistent eligibility criteria for redress which avoid arbitrarily excluding applications for compensation based on where abuse occurred; and
- the application and assessment process for compensation appropriately reflects the traumatic experiences of care leavers.

Recommendation 2

The committee recommends that the Queensland and Western Australian Governments consider applications for redress from care leavers who were unaware of the redress schemes which operated in those states prior to the closing dates for applications.

Response to Recommendations 1 & 2

The Australian Government notes these recommendations.

The Australian Government considers that these are matters for the Queensland, South Australian, Tasmanian and Western Australian Governments.

Recommendation 3

The committee recommends that the New South Wales and Victorian Governments establish administrative schemes to provide redress to people who experienced abuse or neglect while in institutional or foster care in those states.

Response

The Australian Government notes this recommendation.

Redress in New South Wales and Victoria is a matter for those State Governments.

Recommendation 4

The committee recommends that the Australian Government pursue all available policy and political options, including through the Council of Australian Governments and other appropriate national forums, to ensure that:

- New South Wales and Victoria establish redress schemes for people who suffered abuse or neglect in institutional or foster care in those states;
- Queensland and Western Australia make provision to ensure continued receipt of redress claims; and
- greater consistency between the criteria applied under state redress schemes is achieved.

Response

The Australian Government notes these recommendations.

Redress is a matter for each State Government to consider.

Within the Council of Australian Governments (COAG) framework, the Australian Government raised these issues at a meeting of the Community and Disability Services Ministers' Conference on 11 September 2009.

The Australian Government is continuing to work closely with State and Territory Governments to ensure that Forgotten Australians and former child migrants are able to access specialist support services and to improve access to mainstream health and welfare programs.

The Australian Government will again raise these matters in appropriate COAG forums to ensure continued progress is made.

Recommendation 5

The committee recommends that the Australian Government examine whether people who were placed in institutional or foster care in the Northern Territory or the Australian Capital Territory, during the periods that the Commonwealth directly administered those territories, suffered similar abuse and neglect to children placed in care in other jurisdictions.

Response

The Australian Government notes this recommendation.

The Government notes that there has been no evidence presented to any of the relevant Senate Inquiries, including this current Inquiry, about time in institutional care in either territory by Forgotten Australians or former child migrants.

The Australian Government announced a range of initiatives in the National Apology to Forgotten Australians and former child migrants on 16 November 2009 to assist care leavers wherever resident in Australia in ways other than providing monetary compensation.

The Australian Government's national Find and Connect Service will be available to Forgotten Australians and former child migrants no matter where they were in care or where they now reside. The national Find and Connect Service will provide an Australia-wide, coordinated, family tracing and support service for Forgotten Australians and former child migrants to locate their personal records and to reunite with their families, where this is desired and possible.

Find and Connect will also bring together historical resources relating to institutional care throughout Australia, including in the Northern Territory and the Australian Capital Territory. This information will be available through the Find and Connect website.

The Australia Government has also developed and funds assistance provided to the Stolen Generations, such as through the Aboriginal and Torres Strait Islander Healing Foundation and Link Up family reunion services.

Recommendation 6

The committee recommends that the Australian Government review 'waiver of debt' provisions contained in social security legislation and consider amendments to that legislation where current provisions could cause unfair and unjust outcomes for welfare recipients.

Response

The Australian Government is reviewing current debt waiver provisions under social security law to ensure they provide an appropriate balance between recovering amounts that exceed a person's entitlement and avoiding onerous and inequitable outcomes for customers. The Australian Government is actively engaging, and will continue to engage, the National Welfare Rights Network in ongoing discussions to make the system fairer.

Recommendation 7

The committee recommends that the Department of Finance and Deregulation investigate the extension, in appropriate circumstances, of the Compensation for Detriment caused by Defective Administration scheme to *Commonwealth Authorities and Corporations Act 1997* agencies and to third party providers performing functions or providing services on behalf of the Commonwealth.

Response

The Australian Government notes this recommendation.

The Department of Finance and Deregulation is investigating the extension of the *Scheme of Compensation for Detriment caused by Defective Administration to Commonwealth Authorities and Corporations Act 1997* (CAC Act) agencies and to third party providers performing functions or providing services on behalf of the Commonwealth.

Additional Recommendations provided by the Australian Greens

Recommendation 1

That the Australian Government develop a national standard for redress schemes.

Response

Redress is a matter for each State Government to consider.

Recommendation 2

That the Australian Government develop and support a national service to provide information and support to all those affected by past government policies and practices (irrespective of whether Commonwealth, State or Territory) to access or pursue compensation, restitution or redress.

Response

The Australian Government announced a range of initiatives in the National Apology to Forgotten Australians and former child migrants on 16 November 2009 to assist care leavers wherever resident in Australia in ways other than providing monetary compensation.

The Australian Government's national Find and Connect Service will be available to Forgotten Australians and former child migrants no matter where they were in care or where they now reside. The national Find and Connect Service will provide an Australia-wide, coordinated, family tracing and support service for Forgotten Australians and former child migrants to locate their personal records and to reunite with their families, where this is desired and possible.

The Australian Government is continuing to work closely with State and Territory Governments to ensure that Forgotten Australians and former child migrants are able to access specialist support services and to improve access to mainstream health and welfare programs.

The Australia Government also funds assistance for the Stolen Generations, through the Aboriginal and Torres Strait Islander Healing Foundation and Link Up family reunion services.

Recommendation 3

That the Australian Government ensure that citizens affected by the past policies and practices of the Northern Territory or the ACT have access to appropriate compensation, restitution and redress in a timely fashion.

Response

The Australian Government notes this recommendation.

The Government notes that there has been no evidence presented to any of the relevant Senate Inquiries, including this current Inquiry, about time in institutional care in either territory by Forgotten Australians or former child migrants.

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

Find and Connect will also bring together historical resources relating to institutional care throughout Australia, including in the Northern Territory and the Australian Capital Territory. This information will be available through the Find and Connect website.

The Australia Government also funds assistance provided to the Stolen Generations through the Aboriginal and Torres Strait Islander Healing Foundation and Link Up family reunion services.

Recommendation 4

That the Australian Government establish a national reparations scheme for the Stolen Generations as outlined by The Australian Greens Stolen Generations Reparations Bill 2010.

Response

On 13 February 2008, the then Prime Minister Kevin Rudd offered the National Apology in a spirit of respect, and in recognition of the profound grief, suffering and loss inflicted on Stolen Generations.

At the time it was acknowledged that words alone were not enough. While the Government does not support the establishment of a national reparations scheme for the Stolen Generations, we are working practically to assist members of the Stolen Generations to deal with the daily experience of various types of trauma, loss and grief and to help families and future generations to stop the cycle of trauma from continuing.

After the *Motion of Apology to Australia's Indigenous Peoples* on 13 February 2008 the Government committed an additional \$15.7 million to important initiatives such as Link Up family reunion services and Bringing Them Home counsellors for Stolen Generations' survivors.

On 13 February 2009, the first anniversary of the *Motion of Apology to Australia's Indigenous Peoples*, the Government announced a further \$13.8 million for the Link Up program to enable an extra 351 family reunions and around 100 'Return to Country' reunions.

The Aboriginal and Torres Strait Islander Healing Foundation was established on 30 October 2009. The 2009-10 Budget provided \$26 million in funding over four years for the Foundation to address trauma and aid healing in Aboriginal and Torres Strait Islander communities, mindful of the unique needs of members of the Stolen Generations.

Recommendation 5

That the Australian Government develop and implement a comprehensive debt collection strategy to reduce the incidence of social security debts, provide fairer debt recovery methods and ensure that debts are not unfairly raised.

Recommendation 6

That the Australian Government amend the Social Security Act to remove anomalies and unfair aspects of its debt waiver provisions along the lines recommended in the evidence presented by the National Welfare Rights Network.

Response to recommendations 5 and 6

The Australian Government is reviewing current debt waiver provisions under social security law to ensure they provide an appropriate balance between recovering amounts that exceed a person's entitlement and avoiding onerous and inequitable outcomes for customers. The Australian Government is actively engaging, and will continue to engage, the National Welfare Rights Network in ongoing discussions to make the system fairer.