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SENATE

STANDING COMMITTEE ON COMMUNITY AFFAIRS

**Reference: Implementation of the recommendations of the Lost Innocents
and Forgotten Australians reports**

TUESDAY, 31 MARCH 2009

PERTH

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**SENATE STANDING COMMITTEE ON
COMMUNITY AFFAIRS**

Tuesday, 31 March 2009

Members: Senator Moore (*Chair*), Senator Siewert (*Deputy Chair*), Senators Adams, Bilyk, Boyce, Carol Brown, Furner and Humphries

Substitute members: Senator Farrell to replace Senator Bilyk

Participating members: Senators Abetz, Arbib, Barnett, Bernardi, Birmingham, Mark Bishop, Boswell, Brandis, Bob Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Hanson-Young, Heffernan, Hurley, Hutchins, Johnston, Joyce, Kroger, Ludlam, Ian Macdonald, McEwen, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Stephens, Sterle, Troeth, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Humphries, Moore and Siewert

Terms of reference for the inquiry:

To inquire into and report on:

Implementation of the recommendations of the *Lost Innocents* and *Forgotten Australians* reports

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Committee met at 9.01 am**ROSSER, Dr Debra Lee, Consultant, CBERS Consultancy****WHITE, Dr Philippa Anne, Coordinator, CBERS Consultancy**

CHAIR (Senator Moore)—Good morning everyone. The Community Affairs Committee is looking at the reference we have into recommendations on the *Lost innocents* and *Forgotten Australians* reports. I welcome representatives of the CBERS Consultancy. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. Dr White, you gave evidence in the previous inquiry and I remember that you gave a large submission to that inquiry.

Dr White—I did not give evidence.

CHAIR—You did not give evidence?

Dr White—No.

CHAIR—Dr Rosser, have you given evidence in one of these things before?

Dr Rosser—Yes, I have.

CHAIR—That is fine. You know how the system operates. They say it is always easier after the first time. We have your submission, thank you very much, and we also have some general information about the changes that have happened with your organisation. We would very much like to hear from you, if either or both of you have an opening statement, and then we will go into questions.

There are only three of us here today: Senator Siewert, from Western Australia, Senator Humphries, from the ACT, and myself. That by no means reflects the interest in this inquiry. It is just that there is a very tight schedule with Senate inquiries at the moment and the senators are all around the place. All the evidence and your submissions have been read by the full committee and the *Hansard* record of your evidence will be read as well. The full committee is intensely interested in this inquiry. I wanted to make you aware that having just three of us, and Mr Humphery and Mr Powell from the secretariat, does not mean that this is an inquiry that does not have the full attention of the committee. I think it is important for people to know that, because sometimes you see pictures of Senate inquiries with eight, nine, 12 senators. The numbers are not that important; it is the interest in the evidence. I invite you to make a comment.

Dr White—Thank you. We do have a brief opening statement. We would like to thank you for this opportunity to contribute to the inquiry and to highlight some of the issues raised in the CBERS submission, which was prepared by Debra and myself.

I am the coordinator of CBERS Consultancy and have operated the service in Fremantle since the closure of CBERS' services in Subiaco at the end of 2005. Debra was a committee member of the former agency and has had considerable involvement in broader care leaver initiatives.

Our work with care leavers has given us insight into the human face of the policies and practices arising from the *Lost innocents* and *Forgotten Australians* inquiries. Some key areas include family reunification work with former child migrants, issues surrounding formal apologies and methods of reparation, the significance of records and personal documentation for care leavers, clinical issues in working with survivors of trauma and abuse, and the importance of facilitating peer support networks and communication networks amongst care leavers. We are particularly concerned to discuss the above in the context of equitable access to information, services and support across Australia.

In the four months since we prepared our submission, further information has emerged as we respond to a broad population of care leavers applying for the Redress WA scheme. We believe it will be useful today to discuss issues such as the considerable degree of trauma associated with reparation processes, as well as the very positive outcomes observed so far; key problems experienced by care leavers as they move out of the system; and the particular difficulties faced by people living in rural and interstate locations. We are happy to talk about those or any other issues you would like to discuss with us.

CHAIR—Thank you, Dr White. Dr Rosser, do you want to add something at this stage?

Dr Rosser—Not at this stage, thank you.

CHAIR—We are in the wonderful situation of having time today, which is often a restriction in these jobs, so I will not be closing senators down at all. So go for it!

Senator SIEWERT—I would like to start with the redress scheme, which you have touched on. Have you been assisting a lot of people with that process? How do people feel about the current scheme in Western Australia and what lessons have you already drawn from the process so far?

Dr White—That is a very broad question. So far we have had about 560 individuals contact us in regard to the scheme, and we will be preparing applications for a large number of those—probably 400 all up. CBERS' redress service is one of the tendered support services to Redress WA. Our role is to assist people with their applications and provide supported counselling through that process.

In relation to the second part of your question, we have been taken aback by the degree of distress and trauma that this process has raised for applicants. When you look at it, it makes sense that that would happen, but we have been quite taken aback by the strength of it and the widespread volume of symptoms amongst applicants, who almost all find it really distressing. Some will revert to former symptoms that they have recovered from and experience flashbacks. It is really very difficult for people.

The other thing we have noticed very much is that people tend to minimise the impact on them of what happened or do not actually recognise the impact of it. The low self-esteem that is associated with child abuse and neglect really comes through in statements like, 'Kids like us deserved it,' or, 'That's what we got,' or, 'That was how it was then,' and that sort of thing.

The positive side of it has been that people, when their stories are read back to them and are framed in a compassionate way, find it very validating to get that feedback and to have their complaint in writing. Even before we have got to the acknowledgement and apology stage, there are really positive outcomes in that regard, and in people showing that document to family members and those family members realising for the first time that that is why their loved one is the way they are. So there are some very positive outcomes, as well as the obvious distress and trauma this creates for people.

Senator SIEWERT—Are the counselling services that are being provided meeting people's needs? Do you have enough resources to meet people's needs?

Dr White—Often they are meeting people's needs. Often people will say they do not want counselling.

Dr Rosser—That is common.

Dr White—Yes. Some will not have a bar of it and then proceed to engage in counselling.

Senator SIEWERT—Yes.

Dr White—Really all we can offer in the context of our funding and our approach to working with applicants is the supportive counselling through the process and then referral to mainstream services. Where there are areas of particular need, we can apply for additional funding and additional sessions, and that has always been granted so far. But there will undoubtedly be a need in the interim period between the lodgement of applications and the offers of payment and apology where people will be left in limbo and will be worried that they are not going to be believed and that kind of thing. So I can see a need for counselling in that time.

Senator SIEWERT—Are there resources available for what you are calling the interim period?

Dr White—There is not a framework in place as such, but in our communication with Redress WA I am certainly aware that they are investigating needs and setting up proposals for frameworks to support applicants during that period. We are not yet sure what shape that will take.

Senator SIEWERT—We can find out some more about it. But they have got that in their planning processes?

Dr White—Yes, I believe so. That is what we have heard.

Senator SIEWERT—What has been people's response to the design? Some states do not have redress schemes—and I will come back to the question of a national one shortly—but in the states that do have them, they are all different.

Dr White—Yes.

Senator SIEWERT—What has been people's feedback and response to WA's scheme?

Dr Rosser—The one issue that is the most difficult for people is that they may not, and mostly will not, have access to their records of their time in care before they prepare their applications. This poses real difficulties for people. Take the example where I might have been in care as a young child at St Joseph's Orphanage and I really have not much memory of that. I bounced between home and an orphanage and back. If I was male, I may have gone to Clontarf for a short period, but there was always this bouncing back between the institution and home with family. I have grown up not knowing whether I was a ward of the state. Then awful things happened to me in my adolescence, while I was still at home but while I was under the age of 18 or 21.

Had I been a ward of the state, I would qualify during that period for Redress WA. If we ask Redress WA for records, the backlog is so enormous that it is impossible to get people's records in a timely way to determine even whether they were a ward. If they were not, their story of all the horror does not count for redress. So you would be putting people through a process of reliving, which causes great distress to many people, for no extrinsic benefit.

Senator SIEWERT—Yes. How many people would you say are in that position?

Dr White—We have probably encountered 30 to 50 who are in that position. Other people may be proceeding on an assumption that they do know something and actually it is incorrect.

Dr Rosser—I think there are a few. I have a case load at the moment of 21 and, from that, I would say that there are at least 50 per cent whose narratives do not make sense in terms of the practices of child care institutions of the time. So I think that they will find, when Redress WA actually accesses the records, that there will be fairly significant errors of fact about who was responsible for them during that time. It would be good to know.

Senator SIEWERT—Those people have still suffered trauma, which has obviously had a significant impact on their lives, despite the fact that they may not turn out to be wards. What happens for them?

Dr White—We are funded to offer non-eligible clients two sessions of counselling and then referral on to mainstream services. If they are partly eligible, then of course they can receive the full amount of counselling that is allocated to any client, and any counsellor would include the non-eligible areas in their work with that applicant. Probably the saddest instances we get are of people who were in care in other states who ring us and assume that Redress WA is for all Australians and then discover that they are not eligible.

Senator SIEWERT—It is only for WA.

Dr White—Yes.

Senator SIEWERT—I will come back to those that are covered in a minute, because I want to go to the records issue, but those who are not eligible get two counselling sessions and then go to mainstream services.

Dr White—Yes.

Senator SIEWERT—How are they supported through mainstream services? Are they just like everybody else? They join the queue for mainstream services?

Dr White—Yes, basically.

Senator SIEWERT—We were talking about this extensively in Melbourne yesterday and one of the many issues that came up is that there are no mainstream services that are specifically targeted at the needs of care leavers. How are we in WA for the provision of those services?

Dr White—Pretty much the same as Victoria. There are not, that I know of, any specific services or programs that are for care leavers. There may be some youth programs.

Dr Rosser—There are child and adolescent clinic type programs, but I do not really know.

Dr White—Yes. For specific subgroups of care leavers, there are organisations like CBERS Consultancy which will provide free counselling to ex-residents of Mercy, Nazareth and Christian Brothers institutions. If you belong to one of those groups, there are services. The broader population of, say, foster care leavers who do not have that collective identity and are just dispersed in the community, and who may not even identify their adult functioning problems as an outcome of their care experiences, are not captured anywhere.

Senator SIEWERT—Another point that has been made fairly strongly is that there will be care leavers who will not want to have anything to do with the organisation that was responsible for their care in the first place.

Dr Rosser—Yes.

Dr White—Certainly.

Senator SIEWERT—I imagine there would be a lot of people in that category. What you are saying, if I understand you correctly, is that there really are no specific services available for those people. They join the queue like everybody else.

Dr Rosser—Yes. We thought with CBERS, in the old days when CBERS was running as a full agency, that there were probably a lot of people who did not come to us and were being picked up in the mental health system more generally, or not being picked up at all.

Senator SIEWERT—I was going to say ‘or not’.

Dr Rosser—Yes, for the reason that you mentioned. We were not primarily a counselling service, although that was a necessary adjunct to what the program had been set up to do.

Senator SIEWERT—I will hand over to Senator Humphries in a second, but I wanted to go back to the issue of the records. Access to records is a common issue around Australia, as I understand it, and WA seems just as bad as everybody else. Is that correct?

Dr Rosser—I do not know whether that would be fair to say. WA historically—at least since the mid-nineties—would probably have put more resources than some of the other states in the

government sector, and in the private receiving homes, into trying to index their records so that at least you could locate them. So I doubt whether our backlog would be comparatively worse. Nonetheless, I think if you are designing a scheme, again one of the lessons to learn is to try and get your records house as much in order as you can before you start and perhaps have a longer lead time. They will probably talk today about the lessons they have learnt in terms of how to promulgate the scheme in terms of public awareness, but if there were a long lead time and the records were right, then people would be able to access their records prior to making their applications.

Senator SIEWERT—I am aware of Aboriginal people having particular problems getting access to their records. I understand that there has been a slight improvement but there are still big problems there.

Dr Rosser—They would probably be one of the better serviced areas. So that really says something, because probably more resources have gone into Link-up and other programs for Aboriginal people than they have for non-Aboriginal applicants.

Senator SIEWERT—That does not say a lot for non-Aboriginal applicants then, because I am aware there are still significant problems with access to Aboriginal records in Western Australia. I have lots of other questions, but I will hand over and maybe we can bounce back a bit later.

CHAIR—In relation to the institutions that CBERS works with in particular—the Christian Brothers, the Sisters of Mercy and the Sisters of Nazareth—are their records fully up to date and accessible?

Dr White—A lot of effort has gone into being able to access them and there are systems in place so that we can find out where records exist. Of course many records have been destroyed. The indexing system PHIND that Debbie had a role in developing is a great asset in terms of being able to see at a glance where records might be available. Then we can go through the process of applying for them, and we have contact people in each of those locations who will provide us with whatever is available.

CHAIR—It seems that your work has been specialised in that area over many years.

Dr White—Yes.

CHAIR—It is not like you are a new organisation. If there is one area where you should be confident that records are either there or not, and clear about what was lost, it should be with those institutions in WA. If it is still fragmentary or uncertain in those areas, that gives a reason to be concerned about the other institutions.

Dr Rosser—It is just so hard to believe that there is nothing more that can be found.

CHAIR—Absolutely.

Dr Rosser—I have crawled around in the dirt, through rat droppings and dust and things, for years looking for records, particularly over at Mercy. They moved out of their site, and every single thing on that site would have been picked up and moved.

CHAIR—Has been moved?

Dr Rosser—I could not find anything there, apart from a paltry amount of material. If they did not find any records during the big shift out of that site at Wembley, then there must not be any, but you always live in hope. You live in hope that surely somewhere they will find another box of records.

CHAIR—It is eight years since the original inquiry and four or five since the second one. The records issue was a key recommendation in both of those inquiries.

Dr Rosser—Yes.

CHAIR—One of the big issues was that records were difficult to access—there was that and all the FOI stuff about which there was much concern—but the other thing was the genuine fear that whole lots of records from institutions had been destroyed and—

Dr Rosser—Yes. I am sure that is true.

CHAIR—where does that leave people, which will be a question for the government in terms of the redress scheme, if the whole record of what you were doing, whether you were a ward and how long you were in an institution is actually shredded or put in a dump—or, in Queensland, flooded—and you have lost everything. Records in North Queensland were lost in the floods. Nonetheless, in terms of process, that is a big issue. I am sorry, Gary. I just jumped in there.

Dr Rosser—Can I quickly say in response to that that the records that no longer exist in the residential child-care agencies are only part of the story.

CHAIR—Sure.

Dr Rosser—I encourage you to look broadly across government, because there will be police records, health records and, particularly, education. In the State Records office there are some gems of stories.

CHAIR—Have you crawled around in there, Dr Rosser?

Dr Rosser—As much as I could, and you have to do it with a pencil in there. But there are some gems of information lying in a completely random manner, including school inspectors' reports. We all had them as children. Some of those exist. They are not kind maybe, but they are something.

CHAIR—There is a name and there is a location.

Dr Rosser—Yes, and there is quite a bit of information. So if the committee could encourage state government agencies who were not involved in child care to care for their records—

CHAIR—That is a very diplomatic verb, Dr Rosser!

Senator HUMPHRIES—Following up on those questions, we were told yesterday in Victoria about care leavers in Tasmania who were just point blank refused access to their records. That was only hearsay and maybe it is not quite the case. Have you got any evidence of that happening in Western Australia; people just being told they would not be shown their records?

Dr White—Not that we have encountered, no.

Senator HUMPHRIES—That's good! I wanted to explore with you the status in which you come before the committee today. You are a consultancy that was set up originally by the Christian Brothers, and other orders then took on your services as well. You do not, though, speak for the Christian Brothers in this submission, I assume.

Dr White—No, although the Christian Brothers funded the preparation of this submission and, as a courtesy, we provided it to them prior to submitting it.

Senator HUMPHRIES—I do not think we are hearing from the Christian Brothers per se. In fact, I have not seen any orders, so it is—

CHAIR—We are not hearing from anyone from the churches.

Dr Rosser—No. I do not think that they would take issue or be unsupportive of anything that is in this submission. In fact, I would be almost certain of that.

Senator HUMPHRIES—Sure.

Dr White—Yes, and it is the case that we got that feedback prior to submitting the document.

Senator HUMPHRIES—Yes, that is good. It does seem that the process that they have used, or that you have used on their behalf, to deliver services to people who have been in their care, does seem to come close to best practice in the field. Certainly, on my reading of these things, that seems to be the case. You say in the submission, in response to recommendation 3:

We urge the Senators to consider whether “just” outcomes are best pursued through the Courts. A legalistic model may not be the best way forward; there are other mechanisms that currently provide mediated settlements and their very nature means the restitution, or capacity for restorative justice is broadly associated with the complainant's emotional, spiritual and financial needs—not only the financial dimension.

We have seen, of course, since the report was brought down, that in a sense neither the recommendations about a national redress fund nor the ones about speeding up access to legal redress have really been followed through comprehensively. In some cases they have but not comprehensively. There is a temptation to take your suggestion in this part of the submission and say: this should be the focus of action in the future, to give people a chance, through a redress scheme, to be able to deal with their problems rather than to focus on trying to knock down small barriers that stand in the way of litigation, in that this mechanism is most likely to give

people (a) access to money relatively easily, if the Western Australian model is anything to go by, and (b) some sense of accomplishment and closure by virtue of having a resolution within a defined period of time. You would support a recommendation that suggested we emphasise that as a solution to these problems?

Dr Rosser—Absolutely.

Dr White—Yes, always with an eye to the fact that some people may want to seek legal redress and to also have that as an open door, but primarily to focus on the redress approach.

Senator HUMPHRIES—There is a danger if you try and improve the redress mechanism and spread it to other states and at the same time improve the ways in which people can take legal action. It actually exacerbates that problem: which way do you go?

Dr Rosser—Didn't we in our submission suggest that if, for example, there were going to be a change to the statute of limitations—apart from for serious sexual crime—there would be a compulsory mediation process?

Senator HUMPHRIES—Yes, you did.

Dr Rosser—I think that is a good, sensible recommendation. With that pre-court mediation conference a whole lot of things would come into play about disclosure and all sorts of things. You would try to get people not so far on a continuum and try to prevent applicants from putting themselves in the worst possible place personally as they recount the worst possible narrative of their life. That is something that you hold. There is a real tension in that, in that you are asking people, even in Redress WA, to give a very negative account of life but at the same time you acknowledge that these people have survived these experiences—maybe not to a degree that enabled them to reach their full potential, but they are people with value now, and you do not want to accentuate the negative so much that the bottom falls out of their world now. I think court cases do that to people—even to robust individuals in normal society.

Senator HUMPHRIES—I think mediation is a good step in any litigation. It probably should be a compulsory first step.

Dr Rosser—I would agree with that wholeheartedly.

Senator HUMPHRIES—It is particularly problematic in an area where there is a deep personal element of litigation, and sitting across the table from people representing perpetrators—not even being the perpetrators but representing the perpetrators—of serious crimes against them can be very difficult. But I take the point that you are making.

You talked before about the problem of people who have been sometimes state wards and sometimes back in their own homes, and it is not clear whether the harm that was done to them was principally in their home setting or in a care setting. I got the impression that the \$10,000 ex gratia payment process was partly designed to overcome that. If a person had been in care and they could demonstrate harm from their childhood, they would be able to access that \$10,000 fairly readily. Have I misunderstood that?

Dr White—We are not 100 per cent clear on that point ourselves. The wording is, I think, that people who allege abuse and neglect while they were in care are eligible for the \$10,000 payment and then people who have evidence of harm are eligible for higher levels of payment. But we have not seen how that is going to work in practical terms.

Senator HUMPHRIES—The department is coming in this afternoon, and we will ask them.

CHAIR—They do not have to be a state ward, Senator.

Dr White—No.

CHAIR—They do in Queensland. A person is eligible as long as they had gone into care, even if it was what happened a lot with parents just not being able to cope for a while and putting them into care, so it is not a determinant that they actually had formal paperwork for that.

Dr White—No. That is right. That is where this problem arises of determining the periods of eligibility, because if a person who was not a ward had been in a state institution, went home, was abused and went back into care, that period of time is not covered.

Senator HUMPHRIES—Recommendation 6 in the report talks about the need for a national reparations fund, to be funded by the Commonwealth, state governments, churches and agencies proportionately. You broadly welcome the thrust of that recommendation, but of course there has not as yet been any coordinated attempt to get a broad fund which is funded in part by churches or other agencies. Can I read into your support for the thrust of recommendation 6 that the Christian Brothers at least would be willing to contemplate participation in such a fund?

Dr Rosser—I think no, which is not, ‘No, they would not be willing to contemplate it,’ but, ‘No, it would be taking us out of our comfort zone to be representing their views.’ They may well, but we could not say that for them.

Senator HUMPHRIES—You also say that you think there would be value in having a facilitation process where agencies get together and talk about how they build on the best practice that you say you have experienced within your work. What do you think is holding back agencies generally in this area? Is it a lack of access to the knowledge of how well these things can work if they are done properly or is there a financial incentive for them not to want to get involved? What exactly is stopping people doing what you are doing?

Dr Rosser—I do not know that there is anything in particular. One of the problems is that this area is not mainstream agency work any more. Most of the residential care agencies, if they are still in the business of social services broadly, are not necessarily able to fund ‘managing the past’, which is a term the department used in the nineties and it captures quite nicely the concept. These are issues of managing the past. There are not that many agencies doing work like CBERS Consultancy’s. I am not sure what MacKillop is doing over in Victoria. Did they appear before you?

CHAIR—They did not appear.

Senator HUMPHRIES—No.

Dr White—No-one has the mandate for doing that, and each agency has their pool of resources and is proceeding forward and coping with that as best they can. There is not an opportunity to join together at broader levels, apart from on an informal basis.

Dr Rosser—We have participated over the years voluntarily, which is not a problem because we do have a commitment to these issues, but there have not really been any resources. Resources are needed to put people in touch and to share information. There needs to be, at least at the project officer level, someone pulling it all together.

Senator HUMPHRIES—I am asking the question because I would not like to think you would fund a facilitation process of the kind that you are talking about and invite all these agencies to come and half of them do not turn up because they are afraid of where the process will lead—what it commits them to do and the resources involved. Is it realistic to expect that they are willing to come to the table? They just need that bit of encouragement.

Dr Rosser—People do come to the table, for sure.

CHAIR—Is that some of the function of the alliance? Certainly the alliance was developed to be a body that brought people with interest in this area together. There is no compulsion then to act, which is that next step. Having a group where people can contribute and share and learn, I thought, was one of the stimulants to forming the alliance.

Dr Rosser—I think it is a starting point.

Dr White—Yes. The work that the alliance is doing is a great start, and the booklet that they produced is used widely by us, particularly with redress applicants. It just needs to grow.

Senator HUMPHRIES—You recommend that a national children in care clearing house and research body be funded. I can see some value in that process of bringing people up to the mark of what can be done to help. How do you think care leavers would respond to a recommendation on our part along those lines, particularly when some of them are complaining about there not being action on redress schemes or apologies and action by some agencies that were perpetrator organisations?

Dr Rosser—I would take responsibility for being the architect of some of the passion around that. I will come back to you with a question about how Aboriginal and Torres Strait Islander people feel about the Institute of Aboriginal and Torres Strait Islander Studies and whether people in the communities actually find that a useful device. I use that site a lot and it would be wonderful, certainly for agencies like ours, to have access to a pool of information and knowledge about care leaver records, schemes for peer support—all sorts of best practice in all sorts of areas.

Senator HUMPHRIES—You could say that IATSIS was a little bit different, though, to what you are talking about. This is an agency to help the providers sort themselves out, isn't it, rather than everybody in the sector necessarily?

Dr Rosser—Yes, although the internet has that capacity for democracy. If you set up something that sits in an office and then goes out to certain other offices, that is not as broadly inclusive as something that exists in a virtual environment as well.

Senator HUMPHRIES—I can see the value in it. There is no question that it would be, in that respect, useful.

Dr Rosser—I do not think it needs to be. The time has come when we need to look at cheap solutions to some of these things. There is no need to have weighty infrastructure, resource-heavy solutions. We have found with CBERS, with the peer support programs that are running, that we can do a lot with a little.

Senator HUMPHRIES—Okay.

Dr White—Senator Humphries, are you sensing that care leavers would have an objection to agencies being funded?

Senator HUMPHRIES—It is not so much I sense it. I am afraid that if one of our recommendations was to say that we should fund provider organisations to sort themselves out, to go and have a clearing house and to conduct research, I could imagine some care leavers saying, ‘You are asking for money to be put into providers when they should be putting money into care leavers.’

Dr White—Yes. It is useful to be aware of that in any planning process.

Senator HUMPHRIES—Perhaps we can deal with that by asking care leaver representatives what they think of the idea.

Dr White—Yes.

Senator HUMPHRIES—I would like to do that.

Dr Rosser—Yes, but to participate in the design, if you decide to go further down the track.

Dr White—Yes, that it is inclusive.

Senator HUMPHRIES—Yes, that is right.

Senator SIEWERT—I want to go to a couple of issues about the records. I am still hung up on the records.

Dr Rosser—Good.

Dr White—Yes, so are we.

Senator SIEWERT—We heard of an innovative program in Victoria yesterday that is being funded to the tune of \$800,000 for four years called the ‘Who am I?’ project, which had four

different strands to it. It is internet based. So any entity, which could be a former institution or a person even—not if you have made a complaint, but if you have written something et cetera—is accessible. One of the strands is to look at archiving and start getting all the records in order and doing exactly what you said before, which is looking at police records, education records, health records et cetera.

Dr Rosser—Great.

Senator SIEWERT—I asked them whether there was any move to take it nationally and they said they did not have the funding. But it seems to me that that sort of project, if it was taken nationally, would save a whole lot of reinventing of the wheel.

Dr Rosser—Yes.

Dr White—Yes.

Senator SIEWERT—Have you spoken to the Dr Cathy Humphreys, who is the lead person on that project? Have you had anything to do with them at all?

Dr Rosser—No, I have never heard anything about it. That is something for your clearing house, a ‘news for the nation’ type of thing.

CHAIR—We have got all the details on our website because we had a submission from them.

Dr Rosser—Okay. So that is something that we can follow up. Can you tell me the name of that program again, please?

Senator SIEWERT—It is called ‘Who am I?’

Dr Rosser—‘Who am I?’

Senator SIEWERT—It has got the University of Melbourne, the Centre for Excellence in Child and Family Welfare—it is funded by the Victorian Department of Human Services—

CHAIR—There is some other group.

Senator SIEWERT—the Victorian Aboriginal Child Care Association and the Australian Catholic University.

Dr Rosser—Great.

Senator SIEWERT—We could even maybe give you a photocopy of this, if we can get one. I would suggest that you have a look at that.

Dr Rosser—Yes, that is excellent. We can follow that up on the internet. That will be fine.

Senator SIEWERT—In terms of your comments about care leavers from other states not being able to access WA's process, have you had a lot of people contacting you from other states wanting to find out information?

Dr White—I guess, since the start of the scheme in May last year, about 25. So it is not a large number, but they are people who actually got to the point of making contact to make the inquiry. I assume that there would be a larger pool of people who thought, 'That should include me as well,' and then would make initial inquiries themselves and not get to the point of ringing us up.

Senator SIEWERT—There were a lot of calls yesterday from Victoria, as you can probably understand, for a national approach to redress.

Dr White—Yes.

Senator SIEWERT—They still have not got a system in Victoria. Would you support a national approach?

Dr Rosser—Yes.

Dr White—Yes, definitely.

Senator HUMPHRIES—Even if it meant taking the lowest common denominator as a way of bringing people on board and saying, 'WA gives \$80,000, Queensland gives \$40,000, so we'll meet at \$60,000,' or something like that as the national benchmark? Is that worthwhile?

Dr Rosser—You weigh up the inequity. The situation currently is inequitable. I know life is not fair, but we have these artificial elements of unfairness. That is the sort of thing that you have to weigh up yourselves. You go for the least inequity.

Dr White—Yes. A national scheme, even if it were based on a median sort of compromise, would be better than no national scheme.

Senator HUMPHRIES—That is a reasonable point to make.

Senator SIEWERT—I wanted to turn to the issue of child migrants. Do you think there is a need for further travel assistance for former child migrants?

Dr White—Child migrants are an ageing population and travel is not actually all that easy for many of them now. If you asked child migrants if there was a need, they would all say, 'Yes, definitely.' In a perfect world, yes, it would be great if there was ongoing funding for sons and daughters and grandchildren and reciprocal visits. Of course that would be really valuable. The saddest part about the family reunification process is that, even in the most successful joinings of families, you still have a situation where people live half a world away from each other. If literacy is a problem, then being on the internet is not as easy. So the modern ways of staying in touch are not as available.

Senator SIEWERT—Yes.

Dr White—So it is a difficult question about where you put resources. But if the resources were there, yes, definitely.

Senator SIEWERT—You touched on my next question. Have you seen any increase in requests for assistance from family members?

Dr White—Not necessarily an increase. There has always been sort of a steady level there of people inquiring about whether a second trip was available or whether their children might be able to be funded to go, but word has got around that the answer at the moment is no. So we do not get many requests.

Senator SIEWERT—But that does not necessarily reflect need or—

Dr White—Absolutely, or desire, yes.

Senator SIEWERT—It is basically because they think there is no point in asking because they will be told ‘no’.

Dr White—Yes.

Senator SIEWERT—Thank you.

Dr White—But if it were available, I think you would get a very large number of people applying.

Senator SIEWERT—I want to turn to the issue of the apology. We discussed this extensively yesterday in Victoria. While I think it would be fair to say that a number of people thought it was good that there had been an apology in Victoria, there was concern that there had not been a national one. There was also a very deep distress from some people about how it had happened in Victoria. The message I took away from there is, ‘If you are going to do it, you do it right or don’t bother doing it at all.’ What are your thoughts on whether there should be a national apology, with or without a national redress scheme? A lot of comments were also made along the lines of, ‘Don’t bother doing a national one if you’re not announcing a redress scheme at the same time,’ and comparisons were drawn with the apology to the stolen generation and the fact that there has not been an announcement of a national reparations scheme. What do you and the people that you have been working with lately feel about it? Where has the discussion progressed to?

Dr Rosser—My view is that Redress WA has brought people into this arena who have not been politicised about care leaver issues. I personally have not heard anyone evince any interest in an apology. To speak for myself, I think it would be a wonderful thing for the nation to make an apology. I would be reluctant to tie that apology to any particular reparations scheme.

I think that a heartfelt apology, like the Australian parliament did for the stolen generations, is very moving and wonderful for a nation. In this arena it would be to children in some way that was inclusive of all children and maybe would remind us of some of the things we have not touched on today about how well people are cared for when they leave care now. That would be my personal statement, yes, but not to tie it to a particular reparations scheme.

Dr White—I would support that entirely; to have it separate from any kind of reparations scheme. The people that I have encountered who have discussed apologies have often said that they would like it to be face to face in terms of when they are offered payment for their redress application. It seems particularly important that it is not just a cheque in the mail. Having observed many Towards Healing mediations, the power of an apology from a representative of the organisation that harmed the individual can be extremely powerful and have great therapeutic value. It is not possible to apologise individually to every Australian who was in care, but another part of that apology is the broad national apology, which I would really support.

Senator SIEWERT—Thank you.

CHAIR—I have many questions, but there is one that I want to get on record. Your submission talked very positively about the Towards Healing process. We have had a number of submissions and evidence yesterday that was not as complimentary about the process and talked about the lack of independence in the process and also the arbitrary nature of it, so that, depending on which area you were in, the quality, value and the whole process varied intensely. I take it that the experiences you are talking about in your submission relate to what has happened in WA?

Dr White—Yes.

CHAIR—So you are saying that the way it has worked in WA has been positive?

Dr White—It has, particularly in regard to the Christian Brothers work, which has been the great bulk of the Towards Healing work in WA that we are aware of or that we have had contact with. Yes, it comes down to how individuals manage the process. There is great variation across the nation and across different religious orders.

CHAIR—That was the kind of evidence we heard yesterday. As you would know, this is their life in terms of the process. As you will see when you read the *Hansard* from Melbourne—and I do encourage people to read what has been said in other places when they have such great interest in these issues—they were negative not just about Towards Healing, but used that as a particular example because it has had so much publicity, but then went on to talk about the Anglican process also, which varied nationally. There were some negative comments about every church based—

Senator SIEWERT—I think ‘every’ would be fair.

CHAIR—We kept asking and they kept saying, ‘Yes, yes, yes.’ I do not think I have a full list of all organisations, but in terms of the need for something that was transparent, the call was for independence. I note in particular in your submission you talk about your concern that the nature of the Towards Healing process does not lend itself towards systemic and legal issues such as rights of appeal and those things. It is that balance. Would you like to put something on record about how you feel about that, because that was a significant element of your submission.

We had evidence yesterday from some lawyers and also some people who worked in advocacy groups that talked very much about the need to have a systemic process that did lend itself to issues such as independent appeal and review, the ability to have people with you, legal aspects

and all those things, whereas your submission has taken a distinctly different approach. So it would be useful to have on record any comments you would like to make about that.

Dr White—There is currently a national review of the Professional Standards Resource Group.

CHAIR—Yes, I read that. I would love to be a fly on the wall in that systemic review!

Dr White—Yes, so would I. We put in quite a substantial submission to that review and our recommendations were that there needs to be, firstly, empirical research to get a clear picture of how participants do feel about their experience, because all we have at the moment is anecdotal evidence. There needs to be greater transparency and there need to be reviews and clear processes that are given to people at the outset that inform them of their rights. We agree entirely with what you are saying.

CHAIR—I am just trying to remember—maybe you can help me—one of the particular concerns about people not having medical information before they turned up.

Senator SIEWERT—They were getting some of their records and their medical—

CHAIR—The psychiatric assessment.

Senator SIEWERT—Yes, their psychiatric assessment, and their representatives would be given it an hour before they walked in and would then be told, ‘Take it or leave it. You’ve got a certain period of time, then the offer is off the table.’

Dr White—Off the table, exactly.

Senator SIEWERT—A typical lawyer approach.

Dr Rosser—It is just so hard to comprehend, although obviously I do believe you, that people would even think of behaving that way these days.

CHAIR—In a process called Towards Healing?

Dr Rosser—Yes.

Dr White—Because when you look at that big red book of principles—

CHAIR—The big book, yes.

Dr White—it is opposite to that.

Senator HUMPHRIES—Some of these comments were made about the practices of the archdiocese of Melbourne and they were saying that this was what was particularly going on there.

CHAIR—This was evidence in Melbourne.

Senator HUMPHRIES—And they were not following the Towards Healing stance.

CHAIR—They had the Pell principles in Melbourne, which still stand outside Towards Healing. The sentiment also did go interstate, but we were talking about how people felt in the rights of redress and we were talking specifically about these various processes. Towards Healing is such a highly publicised process and, because of the volume of cases that go there because of the nature of the care institutions, he was talking about a range of experiences, which is all on *Hansard*. If you would like to have a look at that, it might be interesting to see what was said. Thank you very much for your time and your ongoing work and the submissions you have given us.

Dr White—Thank you.

CHAIR—If there is anything you feel we need to know, that you think about later, please get in contact with the secretariat. This report is due to be handed down in June, so we have a bit of time.

Dr Rosser—Thank you very much.

[10.00 am]

MURRAY, Mr Andrew James Marshall, Private capacity

CHAIR—We would like to welcome our friend Andrew Murray to this hearing. I will not go through the whole processes about protection of witnesses et cetera; you are way too familiar with this system. We are very glad that you have been able to come and talk with us today, and it is important to put on record yet again the role that you played in ensuring that these issues were subject to review at the national level and the series of reports that came out of it. Consistently, we have all seen that across the board in this country. The fact that you put this on the record and worked so hard for it is the only reason that the Senate did get involved and, now that we are involved, we take our role extremely seriously because we have all been touched by the issues we have heard. If you would like to, make an opening statement and then we will get into a discussion, because we are really interested to see, from the work that you have put in, how it has progressed and where you believe we should go now, which is the whole focus of this inquiry.

Mr Murray—Thank you, Madam Chair. Because I did not put in a submission, I am going to make an opening statement of about 10 minutes, if you would not mind. I will be repeating some things which you know but I think it is important for the probity of the inquiry that those are laid down, so I will proceed on that basis.

As you all know, I have some personal experience of being in care, having been placed in a children's home at the age of two in England and then being sent as a child migrant, at the age of four, to an institution in Southern Rhodesia. However, I am here because of my professional not personal experience, and I ask the committee to refer to and use, if you find it helpful, my work on these issues, much of which is on the Senate *Hansard* record.

Australian national inquiries inform my views, supplemented by a number of British, Irish and Canadian inquiries, inquiries by various Australian states, and hundreds of submissions that include primary sources, and many books and articles. It is nearly eight years since the tabling in the Senate of the *Lost innocents* report and nearly five years since the tabling of the *Forgotten Australians* report. I thank the committee for refusing to let these reports gather dust and for this inquiry into progress with the responses to its recommendations in its three reports on those who have been or are in care.

I take this opportunity to pay my respects to the chair, the secretariat and the committee, as I have great regard for their work. I want to thank the various federal, state and territory governments for those recommendations they have met or tried to meet. My gratitude should not be lost in the criticisms I must make as I focus on those recommendations not dealt with. The starting point for all else is recommendations 30 and 31 of the *Lost innocents* report, and recommendations 1 and 2 of the *Forgotten Australians* report. These deal with the issue of an apology.

I had long called for a national apology to the stolen generation. It was a great day in Australia's national life when it was finally delivered. Prime Minister Rudd gave not just an

apology to the stolen generation but a promise of much more remedial action to come. The committee needs to ask the federal government the question being asked by white children who were harmed in care: where is their apology? Like the Indigenous children, many non-Indigenous children were taken from their country and stolen from their families. Like the Indigenous children, they too were sexually assaulted. They too were physically assaulted. Read all the reports and books.

The sufferings of children in care are not divisible by race. They endured the same harms. If the execution of the policy had resulted in a high standard of care, then that would have been a mitigating factor in the children's removal, but the execution of the policy was often bad and churches, agencies, state and federal governments all failed in their duty of care. As adults, Indigenous and non-Indigenous Australians have all endured lives tarnished by welfare dependency, substance abuse, mental and other health disorders, relationship and parenting problems, and endless searches for identity, resulting from their experiences in care. To this very day, many continue to suffer from the loss of identity and family, from feelings of abandonment, from a fear of authority and from a lack of trust and security.

So why does one section of the population get an apology but not the other? Why is there racial discrimination? Why does one group matter less than the other? That is the question to be asked loudly. I would hate the answer to be 'politics'. One partial answer may be the better funded, better organised and louder voice of Indigenous care leavers. One other possible answer is widespread ignorance. Historically, there has been more academic and serious attention to the history of institutionalised Indigenous Australians than to others who were institutionalised but, even so, the teaching and dissemination of this whole social history has been limited.

The 1997 Australian Human Rights and Equal Opportunity Commission *Bringing them home* report on the Indigenous stolen generations, the Senate Community Affairs Committee 2001 report into child migration, *Lost innocents: righting the record*, the 2004 *Forgotten Australians* report and the 2005 *Protecting vulnerable children* report, have all helped generate more interest, and autobiographic, academic, fictional and official narratives are building. Nevertheless, the popular knowledge and understanding is still lower. The *Forgotten Australians* report conservatively estimates that, taken together, there are over half a million people in Australia who experienced life in orphanages, children's homes or other forms of out-of-home care last century. They are the 7,000 to 10,000 child migrants from Britain, Ireland and Malta; the 30,000 to 50,000 Aboriginal stolen generation children, and the 450,000-plus Australian-born non-Indigenous children raised in orphanages and other forms of out-of-home care. The number in care is still high at around 28,000 children currently. I am not sure of the exact figures, but if you said that 20 million people had been alive in 20th century Australia then, by extension, roughly one in 40 would have been in care.

A second aspect—ignorance—is a failure to understand the consequences of harm and why ongoing remediation is necessary. If you hurt a child, a harmed adult will often result. Long-term harm does not just arise from horrors such as the rape of a child. The common thread of those who have ever been institutionalised or in care is that their attachment to their origins, their family, their home and their past was cut, and this grieves them.

Aggregate those adults who were harmed in care and the social and economic cost is huge. Crime, homelessness, welfare dependency, mental and other health problems, relationship and

parenting difficulties and substance abuse are far too common. Tragically, many have suicided. There is still ignorance in the parliament because many have still not read your reports. Experience has taught me that most in the media are ignorant of the issues. Denial is a problem. Experience has taught me many people, including parliamentarians, find these issues too confronting because they challenge their own perceptions, beliefs or world view. There are parliamentarians with memories of many fine religious educators who find it difficult to hear there were many who were not. I remind them of the *Lost innocents* report, which says that the child migrant WA stories:

... provide an account of systemic criminal sexual assault and predatory behaviour by a large number of the Brothers over a considerable period of time. Evidence was given of boys being abused in many ways for the sexual gratification of the Brothers, of boys being terrified in bed at night as Brothers stalked the dormitories to come and take children to their rooms, of boys as 'pets' of the Brothers being repeatedly sodomised, and of boys being pressured into bestial acts.

To address many problems associated with care leavers searching their pasts through records held by both government and non-government agencies, numerous recommendations are made in the *Lost innocents* and *Forgotten Australians* reports: a total of 19 in all. Although freedom of information legislation and a greater willingness of some organisations to make records available have improved access, problems still include the destruction and fragmentation of records, poor record-keeping and privacy restrictions.

Privacy restrictions can mean that people finally access their records, only to discover that substantial information has been withheld, especially when attempting to access records of other family members. In some cases these records are bound to contain vital information in the quest to trace family members or the person's history. Under privacy legislation, family information is considered information about a third party and is treated differently to the personal information of the searcher. Overall, third party privacy restrictions pose a frustrating barrier to care leavers. The searcher can be denied the very information required to identify family members and to re-establish family links. Privacy provisions need to be changed so that all nine federal, state and territory Australian governments can fulfil their obligations to the United Nations Convention on the Rights of the Child, to which Australia is a signatory. Article 8 of the treaty states:

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

I have noted the government intention to improve FOI. My hope is that the committee will deal with this matter in its report and write to the minister, Senator the Hon. John Faulkner. I encourage you to campaign for the preservation of those records that survive, for better management and central registries and to campaign for and allow greater and more sympathetic access, including ending the misuse of privacy rules to prevent proper-purpose access.

The Queensland government has issued two draft bills for simultaneous public consultation—the Right to Information Bill 2009 and the Information Privacy Bill 2009—for the very good reason that privacy is the flip side to public disclosure and one should not be considered in isolation of the principles and practices of the other.

Recommendation 6 of *Forgotten Australians* was that the government establish and manage a national reparations fund for victims of institutional abuse. The question of finding and exposing records matters in exposing the system as a whole. Reparations for mass harm inflicted on children who remain damaged adults remains a live issue, and records and testimony are vital in these matters.

There is no question that the wide-scale physical and sexual assault of children and varied forms of abuse demand restitution and justice. The federal government's refusal so far to consider a national reparations fund is mocked by the other governments that can and have introduced affordable and helpful reparations schemes, like those of Canada, Ireland, Tasmania, Queensland and Western Australia. The failure to exercise a duty of care demands restitution, it demands reparation and it demands compensation. Redress was an important and unanimous recommendation of the *Forgotten Australians* report. Thank you, Madam Chair. I hope that was not too long.

CHAIR—Thank you very much.

Senator SIEWERT—I will go from the last comment back up to the apology. In fact, I think you were here when I asked the question earlier about the link between an apology and a redress scheme. Do you think an apology should happen without a national reparations scheme?

Mr Murray—I think linking the two has always been a false link. I have always thought the refusal to offer a national apology was, at its best, based on a false premise—and that is that it would open the national government to major compensation claims—and, at its worst, was simply an excuse not to do it. I do not think the two are linked at all. There are people in the care-leaving community of all colours who are desperate for an apology and are not concerned at all with getting compensation or reparation. There are others who are the other way around. I think those are two entirely separate and distinct issues.

In our personal lives and in our national lives the intangibles—the emotional expression of the relationship between governments and people in authority and the people—have to be respected. What an apology does is say, 'We did wrong by you. We didn't exercise a duty of care and we're sorry for that.' The rest is completely separate.

Senator SIEWERT—The opinion was put very strongly yesterday by several groups of care leavers that, if there were going to be a national apology, there had to be a redress scheme along with it. We are all human and there is always a variety of opinions. I am wondering, therefore, what we recommend. Which group do we go with? When the apology was given to the stolen generations, I think there was a lot more emotional response than people expected on that day. I am wondering if people are underestimating the power of an apology in itself.

Mr Murray—Yes. The last point you make is an important one, Senator Siewert. You were not in the Senate at the time, but your two colleagues and the secretariat will recall, when the *Forgotten Australians* report was tabled, there were the most extraordinary scenes I have seen in my time in the Senate. The outpouring of emotion—of jubilation, of relief, of human anguish—was extraordinary. You cannot underestimate its importance to people, far away, listening to it on the radio in a lonely caravan somewhere, which is the life of many of these people.

I think you pose a false premise—and it is probably deliberate just to provoke a response—but it is not an either/or situation. The WA government long ago apologised and separately years later did the redress scheme. You can do both. It is a question of timing, management, structure and design. I do not think you should be putting yourselves in a situation where you say either/or. The original report did not. But it did not say that one had to happen at the same time as the other or as a condition of the other.

Senator HUMPHRIES—Is that the ideal outcome, do you think—a simultaneous apology and announcement of a reparations scheme?

Mr Murray—It would have tremendous impact, yes. It would undoubtedly lend a particular dimension to it. But as an advocate for both, I would never seek to tie both, because what happens if you get a prime minister who is very committed to doing one but not the other? You then wipe off both. In the end, this is a prime ministerial decision. What the committee has to understand is that ultimately it is the Prime Minister who will decide whether there is a national apology and whether there is a national reparations fund, and your report will understand that.

Senator SIEWERT—Senator Humphries asked a question earlier about a national redress scheme. What would your approach be to one now in view of the fact that we have one in WA, one in Queensland and one in Tasmania? Where have I missed?

CHAIR—South Australia is planning one.

Senator SIEWERT—Yes. What would your approach be? Do we take, not the lowest common denominator, hopefully, but another denominator, or do we allow the different states—‘allow’ probably is not the right word—to have their different schemes and the Commonwealth picks another?

Mr Murray—Let me step back. I think you have got to respect the wisdom of your predecessors. The committee considered the evidence very carefully and discussed its recommendation at length and, in my view, came to the right conclusion. I think recommendation 6 covers the ground. Essentially, the committee said that a redress scheme has obviously got to be affordable, which means a cap and means there are boundaries attached to it—which is a feature of all the redress schemes—and it also said that no one party has total liability. There are individuals who are responsible, who acted outside of the law. At no time, at the times those events occurred, was the sexual or physical assault of children lawful. It was never lawful. So there is individual responsibility. Responsibility has to be apportioned to churches and agencies who failed in their duty of care and governments who failed to supervise them in their duty of care. That is an essential element of the original consideration.

If there are redress schemes already under way, you can respond by saying, ‘That is that state’s contribution. They have come to the party, so the others must come to the party.’ Really, the design of any scheme has to respect those who have made a very real effort to apply measures of restitution, and sometimes those are not easily valued. Mediation, for instance, or reconciliation is a tremendously important mechanism for bringing peace to people in their past relationships with providers and so on, but that is difficult to put a value on. I think the committee’s recommendation was very sound and I would urge the committee to stay close to it.

Senator SIEWERT—You commented on access to records and privacy and used Queensland as an example. You cited what Queensland are doing now with the FOI Act and the Privacy Act. Do you consider they are good models?

Mr Murray—I have read the summary documents. I actually have the full documents but I have read the summaries. As you know, Dr Solomon is a particularly able and experienced person in that field and I think nearly all of his recommendations were accepted. Of course they have to be translated into legislation, so we need to wait for that. But what attracted my attention in the federal sphere, according to my memory of it—and the committee members may have the same memory—is that FOI has always been dealt with as a discrete subject from privacy. The inquiries and the Senate have always looked at the two separately.

I have come to the view that they end up in conflict in certain circumstances, and those conflicts need to be resolved where there are legitimate grounds for them being overturned or put aside which are not excessively bureaucratic. Remember, the people who go to that counter are often badly educated, often have difficulty reading and writing and understanding official instructions, find authority threatening and, because they are anxious, can be overaggressive in a situation where it is not in their best interest to be like that. I am not trying to say everybody is like that, but those are the circumstances. So you have to have an easy administrative mechanism.

The point I simply make to you is: if you agree with my view that one is the flip side of the other, then the minister or the committees inquiring, who might not have thought that through, need to be guided by your committee. But these are things you should be taking into account.

Senator SIEWERT—A point was made yesterday, when we were in Victoria, about New South Wales. They said that the privacy provisions in New South Wales had basically shut down any further access to records.

Mr Murray—That is right.

Senator SIEWERT—You are absolutely right. It is a really significant issue, and I was interested in whether you thought Queensland was on the right track with their approach.

Mr Murray—Certainly in putting the two out together. If I may say so, that is a very intelligent way to go.

CHAIR—I have made a small note of that, Mr Murray.

Mr Murray—I want to stress that, of course, exceptions for individuals are sometimes worthwhile. But what you are talking about here is a vast number of people. I mentioned to you that if one in 40 people were in care last century—the maths does not work out exactly—you have to multiply that one person by the number of people they are connected to. So you will end up saying one in four or one in five Australians have some form of connection with people who have been in care, either as friends, employers, partners, kids or something. That is a very big area of interest and it needs to be addressed because of its size.

Senator HUMPHRIES—I did not fully catch the question that Rachel Siewert asked. I think she asked about how you actually engineer this balance between freedom of information and the privacy legislation. You were saying there was somebody that you would refer to who would have an idea.

Mr Murray—Let me give you an exact response to a particular instance. If I, as a care leaver, go to a government authority and say, ‘Can you give me my records?’, they may or may not agree to give them, subject to proper proof of identity—which, by the way, many of these people lack because their names were changed or their birth certificates have been lost or whatever. But if I say, ‘I am trying to trace my brother. I think his name was Gary but I think he changed his surname,’ they will say, ‘We can’t do that. That is a third party.’ I think you have to have third party protection in privacy law. You must, because otherwise you will get people who, for an improper purpose, seek that information. But there needs to be a mechanism whereby that rule can be broken by exception.

Senator HUMPHRIES—Yes. The question I am asking is what is that mechanism? How should it be worded? Should a person who has been in care have a special right to access to those records because of their need?

Mr Murray—Typically, as you know, in designing legislation, where you design an exception you say, ‘This applies, but it does not apply in the following circumstances,’ which should be considered by perhaps the freedom of information officer which every department, certainly in governments, has or somebody of that nature. There must be a mechanism by which somebody can be asked the question: ‘Should this person Andrew be able to find that person Gary because they were in care?’ The presumption should be that they should. By the way, that is the presumption that Senator Faulkner is trying to put into freedom of information legislation; that the presumption is on disclosure. You have to justify keeping it secret, not the other way around. I would apply that same principle in these cases.

Senator HUMPHRIES—There are special provisions of the kind that you are mentioning here with respect to adoption laws; about when you can disclose information about a relinquishing parent. Obviously there is a question there about whether a parent wishes to be connected with a child that they have given up.

Mr Murray—That is right.

Senator HUMPHRIES—I assume you would accept that the principle should be nearer towards open disclosure in a situation like this, in that the sorts of dynamics you will find with a relinquishing parent are less likely to be found in a situation of a child who was put into an institution. Some of the same issues may well apply.

Mr Murray—Yes.

Senator HUMPHRIES—Whereas it is easy to identify perhaps a parent who might not wish to be contacted, other family members might be in a different situation. I am looking for a simple rule that we could attempt to suggest through our report. Probably no simple rule is available.

Mr Murray—Yes.

Senator HUMPHRIES—You are suggesting that the governing principle here ought to be the need of a person to be able to connect with their identity.

Mr Murray—That is right.

Senator HUMPHRIES—The international covenant's language. That overrides the need for the privacy of people who might be connected with them through family.

Mr Murray—The professional academic psychological literature is very firm on the importance of identity and connection. It is an overriding need amongst human beings. Someone who is cautious would ask the question: 'But what happens if the person who is to be connected with does not want to be connected?' In my experience in the care leaver field, that has been most common—and it is not common—where it has occurred with parents, not with siblings, because a mother who was forced to give up a child, because she was young and felt she had to because she was unmarried, was often so ashamed that she never wanted to reconnect. I would say that is a minority. But mostly they did want to connect. With siblings, or aunts and uncles and so on, it very rarely, in my experience, is an issue. Some people do connect, find they have nothing in common and do not take it any further. But the literature that is out there and the submissions you have received are very expansive on this and indicate that fears in that particular area of connection which is unwanted are probably way overstated.

Senator HUMPHRIES—The recommendation that we made in the *Forgotten Australians* report about the reparations scheme embraced the idea that it should be contributed to by state and territory governments and by churches and agencies who have been involved in providing care. It does not appear, in the time since the report was brought down, as if anything has been done to engineer even a discussion between those parties as to coming forward and taking part in a reparations process. Do you think that the involvement of churches and agencies providing care is an essential ingredient in the national scheme?

Mr Murray—No, I do not. The reason I do not is that I think it highly unlikely that they would all become participants or contributors. Let me just use a rough figure, and it certainly is not the figure I have in mind, but I will use it as an example. Let's assume the Commonwealth said a billion dollars would be appropriate, capped, as a reparations fund for all Indigenous and non-Indigenous people who had been harmed in care, and the Commonwealth consider their part of that to be half a billion. I am just using rough figures. Please do not pin me to these figures. It would imply that the other half a billion has to be picked up by state governments, churches and agencies, and the Commonwealth would apply moral suasion, to use an old economist's term, for the others to come to the party but, if they did not, they would still proceed with their half a billion. That is the way I would approach it. The other point to make is that some agencies and churches are able to provide non-monetary compensation in the form of counselling services, reconciliation, places in their aged-care facilities. There are all sorts of—

Senator SIEWERT—In kind.

Mr Murray—In kind, yes—that is the term I was looking for—rather than in cash. They are different ways in which people can come to the party, but under no circumstances should a

federal redress scheme be dependent upon the participation of others. It should go ahead regardless, but recognising that it could be much more expansive if others came into the fold.

Senator HUMPHRIES—Do you think it would be appropriate, for argument's sake, to strike a deal with the churches and agencies involved and say, 'We will facilitate a national scheme. We, the Commonwealth, will contribute to it. We will pick a level which is appropriate, given what some states have already done, and we expect you to contribute to the cost of this exercise and reach some sort of figure,' and say, on the basis of that, that there is agreement that the states do not change any of their other laws, as recommended by the Senate inquiry originally, to facilitate easier access to litigation—for example, redesigning the statute of limitations?

Mr Murray—I have tried to read quite widely on the reparations front, and it is a fascinating field, such as the Native Indians of America being compensated for the loss of relics and bones and all sorts of other things and, of course, the dreadful things that have happened to the Jewish people and so on. Everything surrounding reparations requires compromise. You actually cannot compensate somebody whose parents were gassed. You can never, ever compensate for that situation. You actually cannot compensate an 80-year-old who, as a result of being sodomised as a child, has never married, never had a decent relationship, has been a drunk and a substance abuser and had a life of misery. You cannot. What you can provide is a measured amount that is a contribution towards your loss. It is the nature of compensation: it is a measured amount. You have lost an arm in an accident at work; people have a view of that. But, if you are a great artist, you have lost it forever. So I have absolutely no problem with compromises, absolutely no problem with caps and absolutely no problem with a bargaining situation where the various parties agree to what their contribution is—because, without that process, you get nothing.

CHAIR—Andrew, following on from that, you remember that during the discussions around the previous report one of the most contentious issues was the royal commission, and we argued a lot amongst ourselves about where that recommendation should go. Some of the submissions have taken it up but with nowhere near the focus there was five years ago when a lot of the groups were arguing for it. It is very early in our hearings, so we have not got around to having those discussions yet, but you would remember the compromise we came to: if there had not been movement within a certain period of time, if there had not been change, we recommended that, because of the importance and the scale of the issues, a royal commission would be justified. Has your position changed on that?

Mr Murray—No, it has not. I am very glad you asked that.

CHAIR—It follows on from Gary's question.

Mr Murray—Yes. It is one of the reasons I brought along the Children in State Care Commission of Inquiry report, *Allegations of sexual abuse and death from criminal conduct*, South Australia, March 2008. It is known as 'the Mullighan inquiry'. That was not a royal commission, but it has those elements of judicial inquiry.

Essentially, the committee said three things. Firstly, it said statutes of limitation need to be addressed, because the problem with people who have been harmed in care is, generally speaking, they are only emotionally and psychologically ready to address it when decades have passed, frequently when they are in their fifties. It is not universal. Some people are angry

enough to address it as soon as they hit adulthood, but mostly not, so statutes of limitation have to be addressed.

Secondly, the committee recognised that most of these situations were not capable of being proven without reasonable doubt, because they were one on one. An adult belting a child until they lose their teeth and are scarred from the whipping, or whatever it is, occurs in a situation where nobody else is a witness, and the evidence—the scars or whatever it is—is long gone.

Thirdly, to get at records and to resolve cover-ups, which is a feature of the abuse of children worldwide, you need royal commission powers. That is where the committee went to with that. Only Premier Rann in South Australia has got near to that. This was a judicial inquiry, but it had many of those elements. This is horrifying reading, I might tell you. It is awful.

CHAIR—Yes. We are talking with Judge Mullighan.

Mr Murray—It is just awful reading. But he examines all the evidence and all the cases, and dismisses a number of them for various sound reasons, and passes a number to the police to resurrect, and these are going through the courts now and, of course, they address the limitations issue. I think there is a good model here for the Commonwealth to consider. For the very worst cases, for the most extreme events that happened to children in care, you do need this sort of approach. Those events did not happen to the vast majority. Not everybody in care was sodomised; we must really get that idea out of our heads.

It has worked in South Australia. It has been effective. It does not resolve all the issues. It ends up being a relatively small number, because not everybody will come forward, or they have committed suicide or they have resolved it in their own minds, or whatever has happened. I forget the numbers, but it might be 1,500 cases. If you multiplied that around the country, maybe it is 15,000. It is not unmanageable, it does bring closure in an area where a mass injustice occurred and was never addressed, and it does allow for a process whereby people can get to the truth. Mullighan did a terrific job. For those of you who have not read it, it is not nice reading, but I do recommend it to you.

CHAIR—A couple of us met with Judge Mullighan on another inquiry. He was an exceptional person with whom to speak, because he was obviously deeply affected by this work, and so we are talking to him again for this inquiry. One of the other issues—and once again it is early in our discussions—is the frustration of looking at the submission list and seeing that none of the major providers have thought it worth their while to put a submission into this inquiry or to make themselves available. Most governments—even Victoria—have written to us saying they are doing stuff, although they did not come and talk to us yesterday. But it is frustrating when we know that there is evidence across a whole range of providers in this country—but particularly church based providers—and their approach seems to be that they will talk one on one with some individuals if they use their own system, and that is it. Do you have any comments about that or suggestions as to what we should do?

Certainly one of the arguments about the royal commission was that an organisation or a set-up of that nature would force people to come and be open about their past. I am reluctant—and you would remember that I was reluctant four years ago—because I think that the cost and the input of that could be used to help people going into the investigation phase. But we are feeling a

sense of frustration, even at this early stage, because, if the people who clearly had the responsibility at the time to provide care do not believe that this is something that is valuable for them to participate in, where do we go in terms of engaging in that process?

Mr Murray—At one level it is a great pity, because we need to recognise that many churches and agencies—even recalcitrant churches, agencies and individuals—responded to the original recommendations very well and instituted processes.

CHAIR—And apologised.

Mr Murray—Many apologised. They recognised that they needed to sharpen up on their practices with respect to recruitment and supervision, even where they are currently engaged in institutional activities. Much progress has been made. I think it is important for the committee not to get into a mind frame that nothing happened, because much progress has been made and there has been a better perception of these matters in many respects.

On the other side, we know that worldwide, particularly in the churches, the knowledge that they concealed criminals and did not act on their crimes is still very fresh and very costly. In Canada the Anglican diocese for British Columbia was bankrupted. In the USA church processes have been bankrupted by aggressive attorneys pursuing these matters at law using the RICO legislation. Are you familiar with that? It is the racketeering legislation that was designed to attack unions. Various district attorneys-general have got hold of it and attacked the churches to get at their books, their files, their records.

CHAIR—That is equity, I think.

Mr Murray—The result is billions in compensation, because they were liable; they were criminally liable. So in their collective hearts, there is that great fear. In a country like ours, which does not have the aggressive tradition such as you see in American attorneys' departments and where the media is not excited by these issues—they are, generally speaking, quite quiet—they just hope that it will go away.

CHAIR—That is right.

Mr Murray—It is very human, it is very understandable and it is very wrong. That is one of the reasons that I remain a supporter of a royal commission, because that will lance the boil. Amongst the tens of thousands of religious people who are in churches and agencies that deal with children in care, there is only a minority that are criminals, but the majority protected the minority. That is the issue, and I think the committee needs to be straightforward and aggressive about that.

CHAIR—I have one other question. I know you will follow it very closely when the *Hansard* is available on the net, but we had evidence yesterday quoting figures, and one of the difficulties is getting accurate figures, as you know. They were figures from Broken Rites which talked about Australia having the highest incidence in the world of children in care. I am going to clarify, when I read it, whether that is per capita or whatever, but it was very confronting. I had not heard those figures before. It was comparing us with Canada, the US, Ireland and the UK,

and I will find out where the figures came from. Is it your understanding that Australia put more kids into institutional care than any other nation?

Mr Murray—As you know, I like numbers and statistics.

CHAIR—Yes, and we do not have good numbers.

Mr Murray—When I finally made the connection, I could not believe the volume.

CHAIR—No, you were very excited.

Mr Murray—Yes. In one of the Mary MacKillop submissions, I think it was, they said they had 115,000 children, if I remember correctly, just through their organisation over time. I find that mind-boggling. Whether it is true or not I do not know, but the fact that it was probably one in 40 Australians I find astonishing. But when you look at other countries, you have to remember the different categories. For instance, Britain reduced its children in care by exporting them or, let's say, deporting them. The figures for Canada suggest that about 12 per cent of their population is descended from what were known as the 'home children'—people sent from Great Britain to Canada. I do not know whether our figures are higher than anywhere else. I have no idea about Scandinavia or China or wherever—not at all.

CHAIR—I found these figures particularly confronting yesterday, and I do not remember having that evidence in the previous inquiry.

Mr Murray—I presume your evidence was from Dr Wayne Chamley.

CHAIR—Yes.

Mr Murray—He is a very considered individual—

CHAIR—He is, yes.

Mr Murray—so I presume he would have done his research.

CHAIR—Thank you very much. I know that you will be in touch. I know that you are the patron of Families Australia.

Mr Murray—I am one of the patrons.

CHAIR—We heard from the alliance yesterday, and they were talking about the work they were doing. Some of the care leavers have put comments on record that they felt that some of the existing organisations were not engaging, were exclusive, and that people were closed out because of issues about 'members only'. They particularly referred to CLAN and to the alliance. The alliance did put on record yesterday that they had removed that and that there is no longer a members-only component on their website.

In terms of engagement with the current organisations and the openness, do you have any comments about people feeling excluded or whether that would be natural with people who have

had difficulty over many years in being engaged anyway? Some of the submissions were very confronting, in that people felt that some organisations had been funded and favoured, others not, and that there is this divisive nature of the groups.

Mr Murray—That is a really big question.

CHAIR—I thought it was, but I thought I would grab you before you left.

Mr Murray—I think you have to start with the individuals. It is dangerous to paint a whole section of the community with a particular psychological profile. But the science of psychographics does exist, and when children have been treated in the way that many of these people were treated—not all of them—and have not managed it well, they tend to have characteristics which make organisational relationships as tricky as personal relationships. This is a group of people whose personal relationships are not great, and as soon as that extends into an organisation you have problems because you get this defensive, aggressive style—a brittleness and a sense of anger and frustration—which easily comes to the surface and so on. You know what I am talking about. You have met them yourselves. As a consequence, they can be very critical of others—other institutions or other individuals or whatever—and you are not going to change that. That is a fact of life. That is a consequence of their upbringing and in some it is a consequence of character. The way you deal with that is to have multiple organisations so that people have choice. Look at the Indigenous community. People talk about Indigenous politics. It is very vibrant and aggressive and extremely fractious.

CHAIR—And competitive.

Mr Murray—It is no different to the white community. So you have multiple organisations. The great weakness in the non-Indigenous community is a much lower level of funding and of formal professional support. Think of the Indigenous community and the degree of formal professional support. Someone crudely put to me that the white middle class have become engaged there and they have not become engaged with non-Indigenous people. I do not know if that is true, but the fact is that the CLANs of the world, the Child Migrant Trusts of the world and the voluntary organisations are terribly badly funded and supported, and bureaucrats make them jump through hoops, which they do not for the longer established Indigenous advocacy groups. My answer to that is that governments have got to be a little more ‘open-walleted’, to introduce a new phrase into the lexicon.

CHAIR—I was wondering about that term, but I get the meaning.

Mr Murray—You know what I mean—and more sensitive to the need to have a multiplicity of community organisations. It works in environmental groups. There are all sorts of environmental groups out there and there is the same need in this field. Does that help you?

CHAIR—Yes. I wanted to get that on record. Thank you very much for your time. If there is anything else that you think we need to know, please keep in contact, as this report is due in June.

Mr Murray—Thank you.

Proceedings suspended from 10.52 am to 11.13 am

HARRIES, Professor Maria, Associate Member, Alliance for Forgotten Australians; and Private capacity**HUMPHREYS, Mr Laurie, WA Representative, Alliance for Forgotten Australians**

CHAIR—Good morning. Thank you for your patience. I am running a little late now. I start on time but get later through the day. Professor Harries, you are the former chair of CBERS, so is there anything else you would like to say about the capacity in which you appear today?

Prof. Harries—Although I am appearing as an associate member of AFA, I have an individual capacity too, so I am going to struggle with those two, if I may.

CHAIR—That is fine. If there is an area where you wish to be recorded in one way in particular, we will follow it in that way. Otherwise, we will just discuss the issues. Mr Humphreys, do you have anything else to say about your appearance today?

Mr Humphreys—I am also a forgotten Australian, so I think am well versed to represent both AFA and forgotten Australians.

CHAIR—Thank you. You have information on parliamentary privilege and the protection of witnesses. If you would both like to make some opening statements, we will then go into questions. You have seen how it works, so it is very much a discussion process.

Mr Humphreys—Firstly, I would like to thank both past and present members of the Senate, and in particular former Democrat Senator Andrew Murray, for being instrumental in bringing about the original inquiry. His ongoing support is very much appreciated. I have to go into a bit of detail to say who I am. I was a child migrant and in care for 13 years between the ages of four and 17. I left Bindoon to take up an apprenticeship in Toodyay in 1950. Being dissatisfied with that, I headed to Perth, but in a few weeks the welfare people handed me a bus ticket for Goomalling and said that, unless I accepted a position on a farm there, I would be sent to a place called Seaforth. The welfare department, rightly so, did not like us roaming the streets. Seaforth, by the way, was an institution similar to Borstal in England. If anybody has ever heard of Borstal, it is a place where they sent—

CHAIR—How old were you when that happened?

Mr Humphreys—I had just turned 17.

CHAIR—This happened when you were 17?

Mr Humphreys—That is right.

CHAIR—So you were not yet an adult according to the law.

Mr Humphreys—I was under the care of the then child welfare till I was 21. What is urgently needed now for juveniles coming out of care is a resource or drop-in centre, somewhere safe for

them to go, just as a young person from a family would call in at home for advice or a chat or just to catch up. Roaming the streets and having nowhere to go is just as unacceptable now as it was 62 years ago, but the difference now is that we cannot send young people to the country to keep them out of danger—nor should we—as was done in my day. Experience has shown that, without someone to talk to or a place to meet, many ex-care-leavers end up back in care, in the care of prison warders. That is why the recommendation is so important.

One of the priorities of AFA is to have centres in each state and territory catering for forgotten Australians' needs through linked-up services, drop-in facilities and support. A resource centre along the lines of the Lotus centre in Queensland is needed urgently. I am sure it would not only be utilised by care leavers but also by service providers. A centre such as this would go a long way towards fulfilling recommendations from 19 through to 29, which all suggest that the state or Commonwealth fund services for numerous reasons, such as accessing personal records, counselling, education et cetera. Resource centres could enable forgotten Australians to access information from the many services already in existence, such as PHIND, CBERS et cetera. Many recommendations have been made and many studies have been done. Now is the time to act.

CHAIR—Thank you, Mr Humphreys.

Prof. Harries—I set up CBERS at the request of the Christian Brothers in 1994 and closed down that large part of it in 2005. I was invited to do that because I had been interim chair of ACCCA, the Advisory and Coordinating Committee on Child Abuse, following the death of Kath French. Since handing over CBERS to the consulting group, I have become much more involved with the forgotten Australians, particularly as an associate member—I am not a forgotten Australian, so I can only be an associate WA member, along with Laurie, who is the proper member—of the alliance.

We have also been trying very hard to set up an organisation in Perth called FACT—Forgotten Australians Coming Together—which will be the WA equivalent of the other state organisations. Laurie and I, along with three or four others, have been struggling to do that. We are currently in the position where—I think Laurie will attest to this—our letters are not being responded to at all in terms of getting some sort of funding to do that. We cannot do it without resources.

I also have some connection with CREATE, which is an organisation funded by state governments in each state for young people up to the age of 25 leaving care. I am very aware of the difference between what CREATE can provide and what something like FACT can provide. My long-term concern, and one of the reasons I am involved in this area, is with the outcomes of children in care and what I call the iatrogenesis of the care system. It is a public policy practice arena which is grounded in minimal evidence. We have increasing evidence that the outcomes are pretty appalling. They were appalling and they continue to be appalling.

Indeed, it was Senator Murray who drew my attention, when the inquiry was commenced so many years ago, to the fact that this was not just an inquiry about the needs of forgotten Australians of the past; it was, as he said, an opportunity to do things differently in the future. That is what continues to drive me and it certainly drives a lot of the forgotten Australians that we work with on AFA.

This relates to one of the points that Andrew Murray made in terms of the numbers of children in care. In the last 10 years there has been a 100 per cent increase in the number of children coming into care. We now have approximately 35,000 children in care and the number of Indigenous children is seven times that of non-Indigenous children.

We have had a 115 per cent increase in out-of-home care of children in the last 10 years. That relates to our next point, which is that Morgan Disney did an extraordinary report, which was funded by FaCSIA and CSMAC, looking at the cost of post-care. They indicated that every year 1,150 young people leave the care system. They did an analysis and said that the cost of those 1,150 people over their lifetime was \$2 billion, which means a cost to the taxpayer of \$46 million per annum for 1,150 people. This report is available and I have copies.

Finally, thinking a lot about the inquiries and the outcomes of these inquiries, two things in particular strike me. The first thing, which has come up this morning already, is that this area is terribly uncomfortable for people. It is not just uncomfortable for us but it is not something that the public want to pay attention to. It is not something that child welfare authorities want to pay attention to. This is what we call the failure of our system and we do not want to address failure.

I was at a child protection conference in Singapore five years ago and the minister for the interior stood up and said, 'In Singapore'—I cannot remember the figure—'65 children were taken into the care system last year.' A gentleman, a professor of child protection from the United States, stood up and challenged him at the end of his presentation and said, 'I think you got it wrong. You couldn't possibly only have 65 children,' or whatever it was, 'in the care system.' This gentleman, who was much shorter than the professor from the United States, grew about 10 feet as he said, 'No, I don't have it wrong. In Singapore we see it as a failure of our services to take children into care. We do not see the statistic as a success.' I think that is a very powerful image that he was portraying.

The second point around the broader issue is that it seems to me that one of the big things that we are grappling with is the federal-state one. It is not just about whether churches are responsible; it is this federal-state one that you know so well. I have been involved in the FaCSIA development of the child protection framework and I was previously very involved in the development of mental health public policy frameworks. I have also been very involved in the development of the Allen Consulting Group work on child protection in Australia, which is an ARACY funded consultation about to be released by the minister.

They are the public policy arenas that I think are so troublesome at the present time. I know a lot of attention has been paid to the churches and their responsibility, but reading some of the submissions what struck me is this relentless, 'No, that's a state responsibility.' 'No, that's a Commonwealth responsibility.' I think we have to move beyond that. Thank you.

CHAIR—Thank you very much.

Senator SIEWERT—Maybe we should start there in terms of how we move beyond the state-federal boundary. It is not just in this area, it is in virtually all areas that we work in.

Prof. Harries—Absolutely.

Senator SIEWERT—Where do you see that we should be moving then in child protection in terms of that federal-state boundary?

Prof. Harries—There are two elements of child protection. There is the forensic investigatory risk assessment, which for some extraordinary reason the states seem to want to hold onto. I do not know why, because it must be one of the most difficult areas to be involved in. I think that is an important area. Much more important, though, are the broader public policy areas around universal services, which are about providing environments in which children, families and communities can actually thrive rather than suffer.

The evidence is very clear that the children we remove, we are removing from poor households, single-parent households, Indigenous households, households in which there are mental health problems and drug and alcohol problems. We are not removing children from psychopaths who have them in order to kill them or torture them. A huge number of the children that we are removing are coming because of the failure of our community systems, our systemic systems, to actually deal with the issues of poverty, unemployment, homelessness, drugs, alcohol et cetera. It is a funnel that is profoundly obvious. Of 100 children that are reported, around three per cent end up somehow in the care system. The other 97 per cent are from families who are struggling, who get no help at all. It is a very significant funnel.

I think the Commonwealth is responsible and has done some extraordinary work more recently—and I am thinking about the Communities for Children work that was done—acknowledging its role and, at the first level, providing infrastructure, early intervention, work with nought to fives, nurse visitors—all of the stuff that actually works really well. Best Beginnings and ‘early beginnings’, various things they are called in Australia, are very similar to the United Kingdom models in which nurses visit new mums, particularly in areas of great disadvantage, providing much more positive outcomes than waiting for the child to be hurt when mum goes out to work et cetera and you get an investigation from a child protection worker. So that universal service arena is profoundly important and we need to turn on its head the idea that child protection is about protecting children from psychopathic, dangerous parents. It is often about taking children from parents who are just struggling badly. I am not saying it should not happen, but we have to rethink that at a Commonwealth level. That is what the framework is trying to do, by the way.

Senator SIEWERT—You mentioned earlier the study about the costs.

Prof. Harries—By Elizabeth Morgan and Helen Disney. It was requested by CSMAC and, I think, funded by CSMAC and FaCSIA. I am not sure where the funding actually came from. It is 2006 and I think it is called #‘The post-care costs of children’. It is very significant.

Senator SIEWERT—We were given a study yesterday from the Centre for Excellence in Child and Family Welfare from Victoria called *It’s not too late to care*. It talks about the experiences that impact on care leavers and their very poor outcomes in a whole lot of areas compared to the general population.

Prof. Harries—Very significant.

Senator SIEWERT—Have you seen that?

Prof. Harries—Yes, I have seen that. The other one that is really interesting is the report by Access Economics, along with Monash University, on the costs of the child protection system, which I think was released early this year.

Senator SIEWERT—I think it was, yes.

Prof. Harries—It is around the cost of the child protection system as we have it. This one and that one are both interesting in terms of the post-care costs.

Senator SIEWERT—Has a similar study been done in Western Australia?

Prof. Harries—No, not that I know of. It is very hard to do these sorts of studies. It is very hard to access data.

Senator SIEWERT—That is the point that has been made in the past—yesterday as well—about accessing data specifically on care leavers. There is not a lot of data around.

Prof. Harries—No. I think accessing records came up a lot earlier. The whole area of child protection—entry to care, in care and post care—is poorly evidence based. The evidence has been paltry in the past. It is very hard to get access to data or research to get it done. State government departments that are involved in child protection are, understandably, very sensitive.

Senator SIEWERT—I would love to pursue that, but I will get into trouble if I do not stick to the terms of reference. I will not even mention the school requirements.

CHAIR—The truancy bill.

Senator SIEWERT—The truancy bill. I will not ask questions about it, although I would love to. I would like to go to the provision of services to care leavers. I am particularly interested in the areas around counselling. I think you were here this morning when I was asking about that. What sort of access to specialist counselling services do Western Australian care leavers have? Are there specific services available?

Mr Humphreys—CBERS in Western Australia has been going now for some 15 years, I think it is, in terms of the counselling services originally for former residents of Christian Brothers institutions and, in recent years, those services have been extended to Nazareth House, Joey girls and Mercy girls. I believe now, with the redress coming in, there will be forgotten Australians who will be requiring and getting the same counselling.

I have had counselling myself in the past, and that was going back 15 years, so I can assure you it is well and truly available for those people, but for the people who have been in care in other than those three institutions, I do not know where they get counselling from. Quite honestly, it is something that does concern me. I especially wonder about the ones coming out of foster care at the moment. I wonder where they turn to. That is one of the reasons why I so strongly want a drop-in centre or a resource centre so that they would know where to obtain this stuff. I do not really know—Maria might know more—whether there is much counselling taking place out there in the other areas.

Prof. Harries—My response is ‘minimal’, and it is broader than that: it is minimal for so many people who need it, because counselling costs money, and very few people who need it have the money. For a huge group of people—young people et cetera, and for this group of forgotten Australians—all that I know of in WA is CBERS Consultancy, which continues to offer support to the people it can. A couple of the church groups try very hard, but they are not funded to do it, and not-for-profit church groups are really struggling, as we know, in the current economy. DCP—the Department for Child Protection—indicated that it would provide counselling for ex-wards. The response from ex-wards, by and large, is that they do not want to go to see a psychologist in the department which they fled from. And they can go to private psychiatrists or, under the current Medicare arrangements, private psychologists, who can now cover their costs for a certain number of visits. But, by and large, the forgotten Australians that we know do not have anywhere to go apart from CBERS.

Senator SIEWERT—The other recommendation of the report that the centre tabled yesterday was a health card for care leavers—and this is from a Victorian perspective—that enables them to access physical, mental and dental help; health care help, in particular. Has anything like that been considered in Western Australia? Do you think it is a good idea that those sorts of additional services be provided?

Mr Humphreys—I think it is a good idea. It certainly is not locally known, if it is happening. Throughout my life I have been in a health scheme, but I would say the majority of ex-leavers I know are not. I can also tell you that last year we had reason to have a process where there was some money going to become available for ex-Bindoon boys for something that happened years and years ago to do with allocation of farms et cetera on Bindoon. They said there was money available, ‘What do you want to do with it?’ None of those boys wanted cash. They all wanted either some health service—‘Pay us into a health service’—or, indeed, a funeral service. That just gives you an example.

There is a crying need out there. For some unknown reason, for ex-residents there appears to be a surge in cancer. In fact, I can count myself as one of them. If they are not in a health scheme, access to an immediate operation or immediate help is nonexistent. I know personally of someone that is still waiting for a hernia operation, for instance, which, along with bowel cancer, is a very sad situation. But, with the health system, they keep getting their operation put off for various reasons. I do not think we are necessarily in favour of the gold card which goes to veterans. I think a health card which could be administered through Centrelink, somehow or other linked to Centrelink, would be the way to go, and I can assure you it would be very much appreciated.

Senator SIEWERT—So instead of doing it on a state-by-state basis, you would do it on a national basis?

Mr Humphreys—On a national basis. Like Maria said, in a case like this, where we were brought up by a federal government in the first place, I believe the federal government has got to accept that they are an integral part of what happened to us in the past and what is happening to the forgotten Australians at present. Whether this goes to all forgotten Australians or those of a certain age, I do not necessarily concern myself with, but I believe a health card of some sort would be a definite advantage.

Prof. Harries—If I can just add to that, I know that AFA is very supportive of the notion of a broader card, whether it is a gold card or a health care card, so I support that. I think that there is another potential for this card. Noticing some of the submissions, I was interested in the negative aspects put about that. As Andrew Murray was saying, this a very fragmented, fractured community of people, the forgotten Australians, although we try to represent what we can.

Such a card provides an opportunity for a focal point for helping people to identify themselves as a group that we can then get access to. Stephanie Withers will talk more about the redress and the difficulty of getting access to people who should be claiming redress. When we were in the middle of the CBERS work, we tried desperately in all sorts of ways to get access to Australians, rather than child migrants, who had been in the Christian Brothers system, but they are spread far and wide. We do not know where they all are.

We do not know where the forgotten Australians are, but if there were a carrot like this, it may well help us to identify a group of people who want to be identified. Hopefully the rest will be dealt with. You do not have to do this. It is not going to breach any confidentiality or whatever if you have this for people. You do not have to pull them in. People who apply will get it. If they do not, fine, they cannot be forced to. But I have been thinking about how we generate more awareness. One of the purposes of developing FACT was to send out the message that there is a place for people who are currently feeling lost. They do not have a place to identify at the moment. That is a spin-off, for me, of a health care card.

Senator SIEWERT—Senator Humphries, you asked that question yesterday. Do you want to follow it up?

Senator HUMPHRIES—Yes. Some other witnesses have made a similar suggestion for a kind of card like that. Obviously some people—and we have seen some of them in the earlier inquiry—are in a state of denial or wish to separate themselves as much as possible from any labels of that kind. I imagine some would have hesitation in flashing a card in front of a bureaucrat or a doctor or anything saying ‘care leaver’. But what you say describes the benefits of that process. Having some means of capturing people and giving them access to information and services is quite a strong argument for that. We need to consider whether that should happen.

The question that springs to mind from that is: how many people are entering the system all the time, even today, who are in need of these sorts of services? It reminds me that we have been spending much of our time in this inquiry looking historically back at what has happened to people in care in the 20th century. There are still people who are graduating from care today.

Prof. Harries—Absolutely.

Senator HUMPHRIES—We really do not have any idea as to their state of mind when they come out of care; whether they face the same kinds of problems that their antecedents did or whether they are in a significantly better position because of changes that have happened in the meantime. Can you give us any sense of enlightenment about that?

Mr Humphreys—I will give you a small example. My son has two teenage boys. A couple of years ago I was visiting and there were two strange lads there aged about 16 or 17. They were children that had come out of foster homes and had nowhere to go, and they literally dossed

there until they got a job. I know the feeling. I know what it is like when you come out—the circumstances. Do they want to go home to the house from where they were taken in the first place? It might be a single family. They might not want to go home. There are all sorts of reasons why they might not want to go home. As a lot of us did in my day, we forgot what home was or where it was.

The health card is a tremendous idea. It depends how long they have been in care as to how this applies, but I still believe that there is a need, as I said before, for somewhere that they do not call home but at least they call it a drop-in centre, where they can go and have a coffee and they can meet up with like kind, whether it is to find out if there is any employment around or if there is any accommodation.

It is somewhere they need. The last thing they want to do is go back to the department they have been in the care of and ask for help. They do not want to do that, but if there is a place where they can get help, services, counselling and access to health needs, then I believe we will be going a long way to help them.

I do not think it has to do with age. I think it has to do with what is happening at the present moment. Many are going into care. That means many are going to come out of care and they will need looking after—not for the rest of their life but certainly in the interim, in the first few years of coming out until they settle themselves.

Senator HUMPHRIES—The experience of a lot of people that we have spoken to is that, on leaving care, they have wanted to get as far away from that care as possible, have nothing to do with the organisations that provided them with care, even try and shut that period of their lives right out of their minds. In those institutions they were in, they were with other children, mixing with those children, and presumably had some sort of connection or remembrance of those children. If they were in foster care, presumably they would not have that connection with other children. Do you think it is still the case that they would access a service like this, where they would come and want to talk to other people who had had a similar experience and try and access information and so on in a drop-in centre of some kind?

Mr Humphreys—I would say it would be a case of necessity rather than want. They are looking for help, they want somewhere to go, and that is where that would come in. Referring to the old, as I call us, care leavers, there is an example now where the Joey girls and the Nazareth girls are two separate groups. They meet often and they congregate. They are like brothers and sisters because each of them is their own family. They all belong to the same family. There is a lot of that to this day.

I have only heard recently, and I was surprised to find out, that in the suburbs around Perth there are three or four families of former child migrants or former care leavers that congregate. They are looking for something to hang onto because they have no family except their own now. But if they do not have family—and there are a lot, believe you me, that have not married or have fallen out of marriage—they are looking for company, and that is what I am saying in the case of the resource centre. Yes, there is a need.

Senator HUMPHRIES—Do you think these tend to be young people who have had a positive experience of being in those institutions, or are they people with misgivings and

concerns about their time there, who look for reinforcement and support from other people who have been through that?

Mr Humphreys—Whether you have had a positive experience or not, you still need company, you need someone to talk to. You need someone you can confide in, and if it is someone in a like position so much the better. I do not know. I can tell you straight that, as far as I was concerned, I spoke to no-one for 30 years after I left the institution. It gives you an insight.

Prof. Harries—I co-authored a book, which was published last year, called *Reforming Child Protection*. One of the chapters in that was around both the success and the failure of the out-of-home care system, and I do not think we should ever forget that there are some very amazing success stories and extraordinary foster parents and great institutional care. I, as a child, was in institutional care in Africa—Andrew and I have had conversations about this—which was very good. My worst experience was in foster care. Some of the members of FACT have made that point to us very clearly—the ones in foster care and institutional care. The ones who were in institutional care say, ‘At least we had each other.’ The ones in foster care had a series of carers, who did not necessarily care, so they had nothing at the end of it at all. But there is no doubt that having anything is better than having nothing.

CREATE does some great work. By and large—and I hope I am being fair to the people I know at CREATE—the people who work with CREATE or are involved with CREATE have had relatively successful outcomes of care. What they know and what I know is that the majority of kids leave the care system before they get to 18 and can be well managed. Each department in Australia is working really hard on that nexus between leaving care and the post-care system. It is a very important issue for all departments. As I heard from Bev Orr when I went to the Canberra FaHCSIA meetings around the new framework, a large proportion—and we do not know the number—of kids leave the care system at 15 and 16 and hit the streets, and they are the ones who have nothing. So anything is better.

Going back to some of the comments made earlier, the more choice the better. Some people actually want to go back to the institutional arena—to the Christian Brothers group, to the Anglican group. Some do not. FACT would hopefully—if we had something like that—be a place that people could come to, as CBERS was. They would not necessarily have to stay there. I would see that a place like FACT would say, ‘If you need some help, there is a group there. CREATE would be good for you’—just letting people know what is available. People do not even know that.

I have a nephew who has lived with me. For his 18th birthday one of his friends from Tuart College came to visit. This young man was 18 and now lives on his own in a little flat in Joondalup, funded I think by Anglicare. He had been in 28 placements as a child and he hit the streets at 16. God only knows how you get 28 placements by the time you are 16. But he had been on the streets and had been rescued, if you like. The reason he was rescued was that he was interviewed as a homeless kid by a television program and, therefore, picked up by Anglicare. This is just a random experience of mine, but it told me its own story about how kids post care are accessing any sort of support—via a television camera under a bridge in Perth. What an extraordinary way to have to find a way forward in life. It was an interesting anecdote for me. He asked me to adopt him as his aunt.

CHAIR—That was in the 1990s.

Prof. Harries—Yes.

CHAIR—I think that is the focus. We are talking the 1990s and the 2000s. We are not talking something historical.

Prof. Harries—Yes.

Senator HUMPHRIES—Is there any research going on at the moment into the health and wellbeing of care leavers today?

Prof. Harries—Yes, there is. There are a number of places that are trying to do that. Fiona Stanley has a whole research team looking at various things. A colleague of mine at UWA, Professor Mike Clare, has been very involved in doing work around the care system. There is a lot of work people are trying to do, but it is hard to get funds. A lot of people are competing for the ARC funding for this work. It is a very significant area.

Senator HUMPHRIES—Without having seen it, are you able to say whether it points to a more successful system of care today than was the case, say, 30 years ago? I suppose that is a very hard question to answer.

Prof. Harries—There are a lot of things that are a lot better: assessment of foster carers, standards for training, support systems. Whether the system that we have put in place is workable in the way we have it, I do not know. They had a foster care conference on the weekend and called for 250 extra foster carers. We have a gross paucity of carers for the kids we are taking into care. An email I got from South Australia said, ‘We’re spending squillions of dollars on housing kids that we take into care in hotel rooms, with 24-hour volunteers, or people that we pay, to look after them.’ The intentions are really good. Whether the capacity is there, we do not know.

Senator SIEWERT—An additional point there is that, where kids then go into kinship care, support from the state is not provided. Even where kids have an association with the system, the kinship care providers are not getting support from the state either. I know that from direct experience.

Prof. Harries—It seems peripheral somewhat to the work we are doing retrospectively, but—and the forgotten Australians tell us this every time we have a meeting—the message is, ‘For God’s sake, let’s do it better.’ I do not think there is a better book, by the way, than Joanna Penglase’s *Orphans of the Living*. If you have not read it, it is worth reading. The language itself is stunning. Joanna was an orphan of the living.

Senator HUMPHRIES—Clearly, it is part of our job to make sure that, if we identify problems of the past, there are policy settings in place to make sure they are not repeated today. That is fundamental.

Prof. Harries—Can I make another point on that, because I was really interested in the notion of the national apology.

Senator HUMPHRIES—Yes.

Prof. Harries—I think that a national apology provides an opportunity to send a message to the people of Australia about the children of Australia. The care and protection of the children of Australia is everybody's business; it is not just the business of the state government or the Commonwealth government. An apology says, 'We got it wrong,' but it also gives the message, 'We've got to do it better, not just as a government but as the people.' There is a lovely statement that I read about the Masai in Africa, when they meet each other. I do not know if you have heard this.

CHAIR—Go ahead. It is wonderful.

Prof. Harries—The first thing they ask when they meet another tribe is, 'How are the children?'—not, 'Has it been a lovely day?' but, 'How are the children?' If we can develop a public policy framework in this country which is around the importance of children and our failure as a nation in the past in that regard, I think we will do more than we expected we could with these inquiries.

Senator HUMPHRIES—In that context, I recall that we did have one witness in the previous inquiry—and I cannot remember who it was now—who said that in their opinion the foster care regime of today has the makings of the next major inquiry in this series, because problems are brewing in that sector as well, which is a chilling thought. That is an issue we have got to turn our minds to.

Prof. Harries—It goes back to your very first question about the role of the Commonwealth. It may well be that we are asking the foster care system to deal with the impossible. These kids that are coming into care are profoundly damaged. How anybody manages, I do not know. It may be that it is impossible.

Senator HUMPHRIES—Your point about the failure of child services and other services in the community is not so much saying that if we identify a child at risk we need to rush services into that family. It is almost too late then, isn't it?

Prof. Harries—Absolutely.

Senator HUMPHRIES—We need to have better services to pick up those issues long before that point.

Prof. Harries—I worked on a Communities for Children project in Armadale as a research officer. Lots of young people in Armadale, Indigenous and non-Indigenous, would not take their children—their nought to fives—to any sort of playgroup because they were frightened that they would be reported to the authorities. If we have a system like that, we are actually working against the very things we need to have. The only way we could develop services for those people was to guarantee to them that we would not take their names, and then we could work with them. Most mums and dads and grandmas and so on wanted their children to thrive, but they were frightened for all sorts of reasons. But it is getting in for the nought to fives. If we cannot do that early enough, we really will keep on repeating the mistakes of the past. I think I have said enough.

CHAIR—Thank you very much. If there is anything you think we should know, please be in contact with the secretariat. Sometimes you go away and you come across something that you think we should know about, so please be in contact with the secretariat.

Prof. Harries—I wanted to make one more point. It is on the questions around funding from churches at a national level. I could do it then or now.

CHAIR—Now? Certainly.

Prof. Harries—What I should have said at the start was that I am also chair of Mercy Care in Western Australia, so I have some connection with Mercy, and previously with Christian Brothers. When we ask the question of whether churches can contribute, we sometimes forget that the ministries being provided all those years ago were provided by congregations that are now very old. They actually are dying; they are dying off very quickly. One of the reasons you would not get people here from Mercy or some of the others is that the average age is 84. They are in the nursing homes. So it is not about just the Catholic Church or the Anglican Church; it is about the various ministries of those churches, who may have felt very responsible, but now are virtually not in existence. That is a significant issue.

Senator HUMPHRIES—The point was made by some witnesses, though, that it should be the case that there are always successors in title to those organisations, and that they had assets which have been handed down and are used by other areas of the church in the meantime. In subsequent years, as those religions diminished in number, they would pass on their services to other parts of the church. That was more of a lawyer's comment about being able to access those sorts of things when they were bringing legal actions. But you are not suggesting that, because those particular individuals who were involved in those decisions are no longer in a position to be participants in this process, the question of pursuing them and the organisations for involvement in, for example, reparations should not be pursued?

Prof. Harries—If you think about MacKillop, MacKillop is a bunch of services that have come together from different congregations. It is now struggling as a not-for-profit organisation trying to provide a range of services, but that is where the assets went, and that is only one example of many.

I think one can take a sinister view that this was done intentionally and that things were given away intentionally so that people would avoid liability. That may be the case. I am just presenting the other view that the very congregations are ageing and new arrangements have been taken up which actually do not involve those church groups any more. The Presentation Sisters in Ireland gave all of their money to Focus Ireland, which is an organisation for homeless people. That is non-religious. It is an incorporated not-for-profit, non-faith based organisation. All of the assets are used for homeless people, so if you wanted them to contribute, they could not. It is just the other side of the picture that I thought would be useful to put, and I think it goes along with what Andrew Murray was saying.

The Christian Brothers put millions of dollars into CBERS—millions—where the state government gave us nothing, so there was a lot of input at some stage. I am not an apologist for anyone but, thinking to the future, like Andrew I am deeply pragmatic about what can possibly be done. You put your energy where it is possible to get the money and I am not sure that it is

going to be possible, in our country, to get much out of those communities any more. I might be entirely wrong.

CHAIR—What is your view, then, about a royal commission?

Prof. Harries—I struggle. I deeply resent the fact that people are not called to justice for the appalling things that have been done. There is also that balancing act: is it best to put the money there? I think the Mullighan inquiry was hugely important for South Australia and for Australia. I know that AFA wants an inquiry. I sit on the edge of AFA and so I go along with them, because the forgotten Australians want it, and people who have been terribly abused want it. Will it get what we hope it will get, without more and more money going to investigation and less and less to service? My interest is in servicing the people who are so badly affected. I cannot answer.

Senator SIEWERT—One of the many points that have been made is around needing closure. What price can you put on closure?

Prof. Harries—I am not sure it does bring closure.

Senator SIEWERT—I think for different people it does. Some people were saying, ‘No, it doesn’t,’ and other people were saying, ‘Yes, it’s part of closure for me.’ On the redress scheme, the point people have been making—Senator Murray made the point, too—about the apology and redress is that it is not one or the other. They need redress and services, the inquiry and the services, because it is all part of delivering closure.

Prof. Harries—Yes. If we can have an ‘and’ rather than a ‘but’, it would be great, and I really appreciated Andrew Murray’s comment about separating those two out.

CHAIR—Mr Humphreys, do you have a comment on that?

Mr Humphreys—My comment on the apology is that it would not affect me one iota. The only thing I would like an apology to do is to acknowledge that it happened. That is a big thing. I have given a few talks over the last few years and people just do not believe it or it is hard for them to comprehend. The word ‘sorry’ after all these years does not excite me; just the apology for it having happened; saying, ‘We did it and we apologise.’

I have written a book, which I will recommend to you, as Maria did. It is *A Chip Off What Block?* with a question mark, because I did not know what block I was a chip off in those days. Anyway, I have written my life story, *A Chip Off What Block?* To me, the apology does not mean anything except to say, ‘That did happen to you.’ People I have spoken to who have read my book actually say to me, ‘Laurie, I’ve known you for 30 years, and I didn’t know you.’ So that is what an apology says to me.

As far as the redress, the governments that have done it should be congratulated, and I believe the other state governments should do it, but it would be an awfully hard thing to get Commonwealth redress. It is far better for forgotten Australians to come out with something that will help them with their health or their future, rather than getting into a long process, and that includes, in my opinion, the royal commission. We have had enough inquiries. It is evidence. Counsellors will tell you today that new stories and new inquiries getting in the press does not

help because it only revives old memories. As far as I am concerned, let's act on the ones we have already had and all the stuff we know about. You have been told it all. You have got it in writing. Act upon it. Don't let's go down the track of saying, 'Let's have a royal commission.' That is my view. You have asked for it, so that is it.

CHAIR—Thank you very much. You did a great job.

[12.10 pm]

BAYMAN, Mr Peter John, Senior Legal Officer, Redress WA, Department for Communities

O'REILLY, Ms Eileen Patricia, Senior Redress Officer, Redress WA, Department for Communities

ROCK, Dr Marilyn Irene, Senior Redress Officer, Redress WA, Department for Communities

WITHERS, Ms Stephanie, Executive Director, Redress WA, Department for Communities

CHAIR—Welcome to the inquiry. Information on parliamentary privilege and the protection of witnesses and evidence has been provided to you. As public servants, you will not be asked issues about policy development. It will be more about the implementation of that policy and senators will try very hard to keep their questions within that range. Sometimes we fail. We have your submission, thank you very much. I invite any or all of you to make an opening comment and then we will go into questions.

Ms Withers—I am following on from the submission. As you aware, the applications opened on 1 May and will close on 30 April this year, so very soon. The intention is that we will process and close down by the end of 2010. At the moment, that is dependent on how many applications we get and how much we can crank up the process, but we honestly do not know.

At the moment there is a bit of a debate but I think there are 2,062 applications registered on the database. I understand there are a couple of hundred waiting to be put in. We are getting about 200 a week at the moment. It looks like we will make three to 3½ thousand. Of those, at the moment—and these figures are very interim—there is a good representation of Indigenous people. At least 922 people have identified themselves as Indigenous. There is also quite a large group who have not ticked the box either way, so it is hard to know where that group will fall. Four hundred and sixty-two are child migrant identified. The age range is markedly in the 40 to 80 range. There is a very big skewing in that range.

I think you are aware that we are offering two levels of payment, one \$10,000 and another \$80,000. Our eligibility—and I am comparing with Tasmania and Queensland as the two most relevant schemes—is broader. We will acknowledge anyone who was in care that was the state's responsibility, so that covers state institutions, foster care and also institutions run by our agents. I am also aware that our \$80,000 payment is the most generous in Australia.

I think you would also be aware that support is offered and CBERS, from whom you have had evidence this morning, is one of the agencies that we have contracted. We have contracts with agencies the entire length of Western Australia. We are paying reasonably generously for support for people while they apply. We are also now looking at support for them while they wait. We will probably be looking at a community development model for that support. We will also be looking at the issue of giving people their statements of decision and how that will be done.

We are also offering people \$1,000 towards legal costs because we expect them, if they accept a payment, to sign a waiver indemnifying the state and we want to make sure that they do understand what that means. I do not know if you have heard that we have been advertising very widely, including on television, which turned out to be surprisingly more cost effective than I thought. It is, I think, the very best way to get to the group that have been identified as hard to get to.

We believe that the Indigenous applicants are accessible. There are some issues about people in the regions, but the Indigenous community seems in comparison to be reasonably well networked. The child migrants are reasonably well networked. The other groups are not and they are very hard to get to. That is why we were so pleased with the television advertising. We believe that that is a way of getting to people, and certainly once the advertisements started, the calls to the help desk doubled and the applications have been flowing in.

The only other issue that I would like to cover is that we are feeling our way in creating this scheme. The people who created it I think did a very good job. I think that they gave us enough money support to support applicants through the process, and funded us generously for the quantum, depending on the number of applicants that we have. We have some advantages, in that we have a specialist team of records people headed up by a senior archivist who did a lot of the work on the stolen wages report, which is currently being considered by cabinet. Dr Joanna Sassoon is heading up a team who are looking at the records. I was not here this morning but I understand the issue of records came up. They are very complicated and I think there are 13 spots, aren't there?

Ms O'Reilly—Thirteen different agencies where individuals can go to get information about themselves.

Ms Withers—We have online access to a lot of those databases. We already had a lot of MOUs, but Dr Sassoon has been developing a lot more. She also knows where a lot of records are that we did not know about. So we are accessing the records on behalf of applicants, and we have always made it really clear that people do not need their records to apply for redress but we will get them for them.

There are a constellation of advantages from redress. Money for a lot of people is not that important. What I would like to do is give people in their statement of decision a list of all the databases we accessed and where we found records of them. In other words, it is a little map where they can go and look for their history. A lot of people already have their history, but a surprising number do not. To a lot of people, that is terribly important, as I am sure you have heard from other people.

We are also, as I think you have seen in Marilyn's report, going to give people a statement of decision, which will lay out our reasons and their story and will explain to a certain extent why we are giving them the amount of money that we are. We hope that that will be a validation and a confirmation of their story. It will also have a lot of historical context in it, so that people can put their story in a setting.

There are a lot of issues that we have not worked out. We are looking at our scale and how we will make the payments. We are gathering our panel and they will validate the work. The way

our system will work is that, when people apply, we seek their records. We have senior redress officers—and Marilyn is one of them and Trish is their supervisor—who will contact applicants. We will gather material from applicants. The applications of course vary dramatically in their quality. Some of them are almost complete when they arrive; others are three lines, like, 'I was hit in care.' We do not want the quality of people's applications to dramatically determine how much money they get, so we are trying to level the playing field.

We have a team of lawyers—and Peter is their head—who will take the material given to them, which will include a psych report for people who are to get more than the \$10,000, so we will be looking for evidence of psychological damage and post-traumatic stress. All of that material will go to the lawyers. They will make up a statement of decision. That statement of decision will go a panel for confirmation. Peter and his team are the decision makers but the panel will validate, oversight and QA their work. People will then get their statement of decision and an offer, and the money to see a lawyer. They will get a couple of months to make a decision to accept the offer or not. Once they have signed the waiver and accepted the offer, they will get a letter of apology from the minister, laying out our regret at what occurred to them. We are aware that that whole process is, as I say, traumatic and difficult and we are looking at options to support people through it.

Senator HUMPHRIES—What if they do not accept the offer?

Ms Withers—That is their right. Our scheme, because it is ex gratia, is not appealable in the normal sense of the word. However, we are very conscious of our obligation as public servants to be both transparent and accountable, so we hope to tell people why we have done what we have done, and we expect and welcome scrutiny. There is actually no appeal on the quantum. People can say that they believe that we have made an error and that we have not taken certain factors into account. We will have a complaints process where, if they do not believe our offer is appropriate, they will be able to lodge a complaint. We will look at that. If we believe that it is justified, well, obviously we have made an error. If not, they will have the right to go to the State Ombudsman, but that is only on a matter of administrative error. However, I suppose that a Supreme Court judge can decide to hear anything that he or she wants to. But the scheme is not appealable in the true sense of the word. That is my understanding at the moment.

We are hoping that people will take our statements and believe that they are both a validation of their story and a good piece of work. I think you are aware that we paid out 82 interim payments. We are refining and improving the process all the time. Did anybody else want to add anything? Have or missed or underemphasised anything?

Mr Bayman—The independent review panel will have a senior legal person as the presiding member. It will include people with social work and psychological experience and also support group representatives. That is really the first line of appeal. If that group of people, who will be very independent, feel there was something wrong and that we did not cover a particular area, they will send it back and say, 'Look, we don't think you got it right.' So in a sense, although there is no appeal on quantum ultimately to the court, there is the independent review panel, the internal redress complaint process and then the complaint process to the Ombudsman.

As Ms Withers said, it is arguable that somebody could lodge an application in the Supreme Court. They could not have the quantum reconsidered but they could possibly, if a judge felt it was reasonable, have the decision sent back to the department to be redone.

Senator HUMPHRIES—On an ADJR basis, presumably.

Mr Bayman—Yes, very much so.

Ms O'Reilly—I wanted to reiterate that it is a 12-month scheme, and what we have tried to do is learn from the international schemes and the national schemes and ensure that we are providing a healing process. Certainly with Redress WA, we are saying that we acknowledge that, for each individual, that's how it was for them. Then we are also saying, 'Give us your information and we will make it better; we will try and put some healing and compassion back into this experience.'

Dr Rock—One point I would like to raise, which I think is of concern to the scheme, is the incredible skew that we have with the ages of applicants. There are a lot of people who are going to miss out, but this seems to reflect what we found in the inquiries, which is that it is not until decades later that people really hit the wall, so to speak, when their experiences of care come back to haunt them. Eighty-seven per cent of applicants, as Stephanie said, are above the age of 40. Below that, from 18 to 40, the figure is only 13 per cent.

CHAIR—Was that a surprise?

Dr Rock—No, not so much to me, because I had quite a bit of experience on the committees. But it is a point of concern, because there are so many people who are missing out. Once again, Aboriginals and child migrants make up the bulk of the applicants, so it is that core of people who are non-child migrants and non-Aboriginal community members who are missing out, because they are not 'organised'. They do not have organisations like the trust. Of course, the stolen generation are resourced quite handsomely in comparison to the others.

Senator SIEWERT—In terms of the group that is missing out—and I may be asking a policy question, and I will get pinged—has any consideration been given to expanding the deadline, recognising, as it sounds as though you do, that there is a group that you have not got to yet? I am not saying you have not tried, because you obviously have.

Ms Withers—Our minister is quite concerned about this issue. At the moment she is taking the very strong stand that we should close down when we said we would, process the applications and move on.

Senator SIEWERT—I realise I am now venturing into an area—

CHAIR—You are.

Senator SIEWERT—where I am going to get pinged, but I want to clarify the concern. She is concerned that there is a group that is missing out?

Ms Withers—No. She is concerned that we administer the scheme tightly, that we close applications on the date advertised, that we do a prompt and competent job of processing those applications and that the scheme terminates at the time planned for.

Dr Rock—Even if the scheme were to be extended, I think this group of people will still miss out.

Senator SIEWERT—I appreciate what you are saying. You were here, I think, when Associate Professor Harries was saying that they are trying to get other groups going to provide access or advice or become a contact point for the group that sounds like it is specifically missing out. I think Tasmania has just extended their scheme. I am not here lobbying for you to extend yours—that is a different job—but it is being recognised in other states that perhaps the deadline needs to be extended to help the particular group that is missing out.

Another point that CBERS Consultancy made this morning was about the records. It sounds like people are hesitating to put in their applications because they feel that they have not been able to get access to their records. What you are saying is that people should be encouraged to put in their applications and then you will find the records later.

Ms Withers—And we have made that very clear and all of our material says that. I can understand why people want their records, but I do not think the system is resourced to provide them all before the closing date, whereas we are resourced to find them all for people post the closing date and we have made it clear we are willing to do that. We have no reason to hide anything. I should also add that there is very little on file that either confirms or denies a lot of these stories. We almost never find any corroboration, which you would understand.

Senator SIEWERT—They are not exactly going to put a lot of that abuse on record, are they?

Ms Withers—They are not.

Senator SIEWERT—But the point that was made was that the records would confirm whether you were a ward, for example.

Ms Withers—Most of the time we do find evidence of that because, apart from anything else, you can find the financial records for the subsidies. We are finding that we have terrific cooperation from all the religious bodies. Where they have the information, they are letting us have access to it in a very generous way, so we can almost always find a record that a child was in the institution that they say they were in. We may not find admission and departure records, but we will find something that corroborates that they were there. We will find quite reliably the records of people being made wards of the state and we will find subsidy records. We are not looking for every last little piece of information about every person. We obviously have some basics. We need to know they were in care; we need to know roughly the dates; we need to know identities. But we are not having that much trouble finding that.

Ms O'Reilly—We are saying, 'Give us what you've got and we'll make it better.' It does not happen that a government department says that, and I think people are finding that really difficult. That is why, as part of our scheme, when we have found that information, part of the

senior redress officer's role is to take that back to the individual. We are not here to cause more trauma, we are here to try and make this process as compassionate and as healing as possible. It is a very different concept for people to get their heads around.

Ms Withers—We have had one instance that particularly sticks in my mind, which I cannot be too clear about because of confidentiality, where one of our senior redress officers found out a whole pile of really very important information for a woman who was dying. It was about things that would make her feel a lot better—let's put it that way—so we made an arrangement with the Department for Child Protection to process an application from her for access to her records on the same day. We were able to give her that information, which I think was a great comfort to her. So, yes, we are finding out things that are very significant to people and we are sharing them with them when we believe that it is really important for them to have that information about themselves.

CHAIR—Ms Withers, I have got one question to follow up on the relationship between the office and the organisations who actually did provide care. Is there a legal requirement for them to provide the information to you?

Ms Withers—No.

CHAIR—Why not? It is a very direct question: why not?

Mr Bayman—I suppose I should answer that.

CHAIR—Yes.

Mr Bayman—We have no legislative base. So we have no way of requiring anybody to produce any information to us. What we operate from is the applicant's signature to give us permission to go to another government agency or a non-government agency and request information from them. That is all we have. We have no other power to compel.

CHAIR—So the whole system of redress is based on the issue that an applicant comes to you with a statement that they were in care and they are seeking redress. Part of the deal that you have promoted is that you are going to provide these records to them, but you have no legal right to go to an organisation and say, 'We must have these records because we are doing this service as part of our job.'

Ms Withers—No, we are not providing the records to the applicant, we are accessing the records to—

CHAIR—From what you have told us—and I have been listening very carefully—I got that you as an organisation, in giving your decision, were going to provide to the applicant the information about the records that were kept and where they were.

Ms Withers—We will give them a list of the databases we have accessed and in which database we have found a record of them, so they can then go and look for themselves.

CHAIR—Okay.

Ms Withers—We are not giving the records back to the people, only insofar as they will be part of a statement of decision which says that the records show that Mary Smith was in the home of the Good Shepherd from this date to this date et cetera, which is part of our audit trail to make an appropriate payment.

CHAIR—So you can provide that. This record stuff has the devil dust from the first time we started getting involved in this inquiry, in my case and in Senator Humphries' case, five years ago. People have told us that they have difficulty in accessing any records, and the way that you are describing your system indicates this is going to be a step in giving them this information. My ears pricked up when I heard you use the term 'provided generously by organisations'. I now understand why it is described as 'generously', because they do not have to. It comes back down to how you get these records. There has been an agreement in some way at the state level that organisations are providing those to the state government, but they do not have to.

Ms Withers—No.

CHAIR—So if you are seeking information about someone who has made an application and you cannot find that record because the organisation says they do not have it, that is the end of the story as far as the redress goes?

Ms Withers—No, because we have access to a lot of information that is not dependent on the churches, who we are talking about by and large here. There is a whole pile of other records which are actually state government records which we have online and easy access to. Trish, you are probably better qualified.

Ms O'Reilly—Redress is an option for people. They can go through the court system or they can come to Redress as another option. But what we do at Redress is acknowledge their story. We acknowledge what it was for them. So we actually do not need to go to records to find proof that, yes, they were sexually abused four or five times or 100 times. It is not in the records anyway.

CHAIR—That will not be.

Ms O'Reilly—What we use the records for is to confirm that they were in a placement that was funded or recognised by the state government.

Dr Rock—Just to build up a whole picture of their time in care.

Ms Withers—Yes. There is an enormous amount of material about what happened in those institutions, and some of it you have heard mentioned this morning. For an historical context, we do not have to go very far. One of the jobs that senior redress officers are doing is establishing an historical context for each institution for each 10 years, so that we can slot people in. If people come along with stories that are roughly the same—although they do vary; they are not suspiciously the same—we know what happened in various places at various times. It is not a surprise to us what they tell us.

As Trish said, we believe people. Our experience is that people are telling us the truth. The whole point about redress is that so many of these people were not believed, which is quite

astonishing when you read their stories about how many people they told and no-one believed them. One of our very important issues is to say to people, 'Yes, we know you're telling the truth.' We are not asking for corroboration, for proof, because we are not going to get it. Where people are, for instance, in foster placement or less historically established situations, we will probably try harder, because we need to leave an audit trail and we need to look like we have done a decent job of accessing whatever is available. Nevertheless, our first response is to say, 'Yes, we believe you.'

Senator SIEWERT—How will you be determining the scale?

Mr Bayman—I should preface my answer by saying—and I will not use the word 'Bibles', but guides—that the previous Senate inquiries have provided really the major bulk of what I would call evidence, of a kind, that we will use as a basis for our decisions, because when we say that we cannot find on the records proof of abuse—the abusers did not write down in their logbook for the day, 'I sodomised Johnny,' or, 'I belted the hell out of this child'—we do not have that evidence, but what we do know from the hundreds, possibly thousands, of people that have been interviewed—and the evidence has been collected by the Senate committees—is that there is a huge amount of information.

So people present their stories and we compare that with the information, as Stephanie said, that we are collecting in terms of what happened in particular periods of time, because often an institution might have run very well with a particular superintendent for a very short period of time and then a new person turns up and it all goes bad again. So we put that all together and essentially say, 'On the balance of probabilities, it was very likely this person was abused.' Once we are over that hurdle, then we look at, 'What was the severity of harm?' I am not sure whether the committee has seen our redress guidelines, which we had published to the web. It is this document. Essentially it covers how we operate as an agency.

Once we get over all the issues about eligibility—obviously you have to have been over 18 and been in care before a certain time in 2006, and we need evidence that you were in a particular facility—and look at what we have found and establish on the balance of probabilities that it was likely the person was abused, then we ask the person, if they have not already provided it, if they are willing to go for a psychological assessment. If they do not want to, then we can only consider them up to \$10,000. If they are happy to do that, they will go off for a psychological assessment and then we will use that information, along with all the other information that we have collected, to determine what the severity of the harm and the impact on them was. That is extremely difficult.

CHAIR—Who pays for that psychological assessment?

Mr Bayman—We do.

Senator SIEWERT—Do you take into account their past, if they have already been accessing counselling and psychological support?

Dr Rock—Yes.

Senator SIEWERT—You take that into consideration? We have met a number of people who have been seeking support for some time and have made very significant progress through counselling. They could have been addressing the harm previously.

Mr Bayman—Yes. I arrived at Redress after the basic drafts had been written for the guidelines. Cabinet had already approved the cap on the level of payment and the two options, level 1 and level 2, so we did not have any discretion in terms of that. We had no discretion in terms of how we were going to assess people, so it was based on, very typically, a legal model of pain and suffering.

If you have a motor vehicle accident and you take your matter to the court and say, ‘I had whiplash, I had this, I had that,’ the court will be able to take into account things that they call ‘special damages’, which are medical, hospital and physiotherapy. But all the other things about how that accident has affected you, which is generally called pain and suffering, are called ‘general damages’. The way a court looks at them is in terms of the severity, so the most severe impact gets the most amount of money.

Some people would suggest that that is not a fair way of doing it. That was approved by our cabinet, so we do not have a choice in that. I researched the Irish and Canadian schemes, as well as those in Queensland and Tasmania, and looked at the various scales that they were using. They all use a scale based pretty much on a severity of minimum to maximum. Each of the scales can be criticised. I do not think anybody has done any research on the scales to see whether they are internally valid, as a psychologist may consider looking at scales of such a kind.

The Irish scheme has a greater weighting on the actual abuse that occurred. From memory, it is up to 30 per cent for the type of abuse and then the rest of the scores are broken into the sorts of impacts that occur, such as psychological illness or loss of opportunity and those sorts of things. The Canadian schemes use various models. Queensland, I think, are still trying to decide what model they are going to use. Tasmania uses a model which we have favoured because it tries to look at the whole application holistically. In other words, if you are a person who is very resilient, and you experienced the same thing as your brother or your friend at a particular institution, you might have dealt with that in a different way because you have a different personality type or you may have had more support. It is very hard to compare people, even when they are in the same place at the same time. So we are not giving a greater weighting to the type of abuse. We are looking at the overall story of what happened to you, what were the impacts and what you might need in the coming years.

We are still working on the final scale. The scale which we have published, and I will hand up a copy, is fairly simple. It is from one to 10. We are talking to people who have a great deal of expertise in this area. We have child protection specialists and others. We are looking at the latest research. What we want to do is come up with the fairest system that we can. Unfortunately, we have to put somebody somewhere on the scale, and that is a very difficult thing to do. We certainly hope that the final scale that we come up with, which will match the scale in our guidelines which the minister has approved, will be able to meet those goals.

Ms O’Reilly—We have to do that, because it was decided in cabinet that this was the type of scheme we would have. We look at Queensland, where, if you have been in care, you get a flat

rate for the initial payment. There are lots of different schemes and lots of different pros and cons for doing something like that. As Peter said, it is very hard when you have to put an individual on a scale. It is very subjective.

Senator SIEWERT—I might come back to the scale. I looked at the guidelines earlier on, but I have not looked at them for a little while.

CHAIR—Senator Humphries, do you have some questions? Then we can go back to you, Senator Siewert.

Senator HUMPHRIES—I might start by saying, for the record, that I am very grateful that you have appeared today. We have had some difficulty getting other government agencies to appear.

CHAIR—One, Senator Humphries.

Senator HUMPHRIES—Yes, let's be fair, one particular government. I am glad we have had the chance to have you. I think you are entitled to come before us and explain a scheme which, frankly, appears to me to be a very good scheme. It is well designed, and the accessing of it seems to be very much attuned to acknowledging the difficulties people have in making the decision to step across your doorstep. I think you have designed this very well, and I want to commend you on what I have seen of it.

I notice that the scale requires ongoing symptoms or problems to be evident. I wonder whether a person who has, in the past, had serious symptoms but has been able to overcome them would be unfairly excluded from access to the scheme on that basis?

Senator SIEWERT—That is where I was coming from with my previous question.

Mr Bayman—We will certainly take it into account. We are trying to design a scale which sits alongside that. We did not want to design a scale and then publish it so that it became essentially a cheat sheet. I am not suggesting that people would do that, because I am absolutely amazed at the frankness of people. People have not embellished their stories and obviously—I will use Mr Humphries' example—nobody knew what happened at Bindoon in 1942. People have not told lies about what happened to them. We did not want to have a sheet that made it a bit more difficult for people, so they could say, 'I'll get 80,000 if I say these four things.'

So the scale is designed to take account of all the issues. It will be quite complex. It will take account of the age a person was when they came into care, their age when they left care, whether they had contact with their family, how long they were in care and the type of abuse that they experienced. Another section will look at the impacts on people and whether they have had treatment in the past and how that has worked out for them. But, yes, it is difficult.

Ms Withers—Yes. We are not wanting to punish people for resilience, because we are aware that that is probably one of the faults of the very legalistic approach. I must admit we have not been inundated with people who have had successful counselling and got over their problems.

Senator SIEWERT—It is not necessarily getting over their problems but when it has helped.

Ms Withers—We have not been inundated with them either. We may be taking a bit of a dark view, considering we have processed 82 interim payments, because they are the oldest and are really ill. Yes, those 82 really have not been that flash.

Senator HUMPHRIES—It was in the other area of government policy, and you were essentially saying, ‘You can get \$10,000 for ticking a box saying, “I was in an institution and I was abused.” No further evidence required.’ You would be in trouble with auditors.

Ms Withers—Yes.

Senator HUMPHRIES—In this area, it is entirely appropriate, in my view, and should be supported. Why do you think you have such a low rate of take-up? You think there are 54,000 people who would have been through institutions and only, what, 2½ thousand have made applications, do you say?

Ms Withers—I am not 100 per cent sure how accurate that 54,000 is, to be honest, when you ask people exactly how they arrived at that figure. I would not swear to that. There were roughly 3,000 child migrants—I think 2,900—and we have been told that at least 1,000 of those have passed away. There were about the same number of classic stolen generation, and at least 1,000 of them have passed away. I am not sure how we can estimate how many applications we are going to get. I met this morning with an actuary to try to work out what the cost of the 3½ thousand applications is, and we were discussing that there are not really any charts or predictive models to tell us. What you are asking is: ‘Of children in care, what percentage are abused?’ Does anybody know? Over a 60-year-old time period, it is impossible to estimate, I think.

Senator HUMPHRIES—Sure.

Ms O’Reilly—We have gone the length and breadth of the state, more so than any other state government in Australia, to provide information forums, workshops and radio and TV interviews, so we have done as much as we possibly can to reach this group of people. For people that have been in care, certainly from my experience—and I think Marilyn said the same—it is not till they get to a certain stage in their life where they are actually ready to look at this and make a difference in their lives. I have had a number of people that have looked at me and have thrown the application back at me, people in their 20s and 30s, and said, ‘Do you think I’m going to fill this in, tell you my story, and you slap me in the face yet again?’ It is a staged process. People have to be ready to actually put in their applications.

Senator SIEWERT—Which goes back to my original question: why cut it off in April?

Mr Bayman—I think also with the stats that we have, the large proportion of people are over 40. If you look back 35 to 40 years, the whole residential child-care industry in this state changed dramatically in the early seventies. Groups formed their own residential child-care consultative committee, I think it was called, and the leaders of the non-government groups basically banded together. They knocked down the orphanages, built group homes and put professional social workers and psychologists into the facilities.

I am not suggesting for one minute that children were not abused in the last 40 years but the institutional care, which was terrible, to say the least, previous to 1970, certainly started to

improve dramatically, so possibly we are not seeing the numbers of people who suffered what I refer to as institutional care. They tended not to be treated like inmates any more, they were case-managed, and that might have some impact.

Senator HUMPHRIES—We hope that is true.

Mr Bayman—I live in hope.

Ms Withers—Also, you are aware that there is now a new system in this state for dealing with children who have been abused in care and that we cut off at 2006. Effectively, children who make allegations about abuse are given their own lawyers. You know more about that Trish.

Ms O'Reilly—Yes, and we have a duty of care unit set up within the Department for Child Protection, so there is much more individual support for people who allege that they have been abused in care.

Ms Withers—They are automatically referred for legal advice and, because of the statute of limitations, that goes back from 2006. So that new system where children are immediately handed over to their own lawyer will presumably take away the need for redress for those ones post 2006 or in the few years before that.

Senator SIEWERT—I take your point. I still think that there are a lot of people in the system who for various reasons have not yet accessed the scheme. I am not sure if you were here when the issues were raised this morning—they were certainly raised yesterday—about people having a great distrust of, in a lot of instances, the church based care providers. For example, the point was made that they do not want to go anywhere near the service that provided their care and they have also said they do not want to go anywhere near government, because they were wards of the state and therefore they have concerns about approaching the government as well.

I am particularly concerned still about the whole records issue. I appreciate that you are saying you will do the searching of the records, but then there is a trust thing there as well. They are going to the people or the institution that was responsible overall. The government was responsible for them overall and the government is saying, 'Fill out this form and we'll look at your records for you.' The issue of trust has come up again and again. People are not wanting to fill in forms and give them to you. I am not casting aspersions on you or the scheme, but that is about trust. I suspect if they thought they could access the records themselves, that might be a first step for them.

Ms Withers—They can. This state has quite a sophisticated records accessing process.

Ms O'Reilly—Within the Department for Child Protection we have the Family Information Records Bureau, where you can apply to get your records back.

Senator SIEWERT—I understand there is a backlog. You have a backlog and there is a backlog there. I am interpreting, sorry, that there is a backlog, and that may mean that they will not be able to get access to their records to enable them to complete their applications themselves and get them in by April.

Ms Withers—Yes, and we accept that that is a problem. However, they have to accept that we have online access and we will be looking for those records. We have made it really clear to them that we will find those records. Also they need to understand that, in the vast majority of cases, there is not a huge amount to find. We are scratching and we are getting pretty good. Our record-searching people under Dr Sassoon are pretty good, so I think the problem is more apparent than real.

Senator SIEWERT—I understand what you are saying, but you are also dealing with a group of people that are traumatised and have huge distrust. As you said, they have often not had the same access to education as people who were not in care, so they have a poor educational background. They are a group of people that have been distrustful of the system since they have been in care.

Ms Withers—We have also spent quite a lot of money paying agencies to go out and find these people and assist them with applications. A lot of people have used those services which we have provided.

Senator SIEWERT—That was one of my next questions. We have obviously talked to people from CBERS this morning, who were service providers, as I understand it. I presume there are other organisations that you fund.

Ms O'Reilly—Yes, there are many. We have Relationships Australia, the Aboriginal Legal Service, Aboriginal healing centres, as in Dumbartung, Incest Survivors, a number of organisations that are non-government community based organisations. What is the one down in the Great Southern area?

Ms Withers—We can send a list through to the committee, because we have hired a lot of small, quite local providers in the regional areas, because we figured that they would have better access. We have also hired some prison based organisations and some disability based organisations. We can send a complete record through.

Senator SIEWERT—That would be appreciated.

Ms O'Reilly—We have an officer outsourced in the prisons department, who can take applications in all the prisons. To avoid getting caught up with all the bureaucracy of prisons, we thought we would have people there that they could go and see. We also have a couple of social workers on the end of a 1800 line, so anyone anywhere can ring up and get their application filled out over the phone. We have really tried to do as much as we can.

Dr Rock—On this point, CLAN—the Care Leavers of Australia Network—are one of our service providers too. They deal with people who live out of Western Australia but were brought up in care in Western Australia, so they can access CLAN to get application assistance.

Ms O'Reilly—With our latest stats, there are something like 270-odd people from outside of Western Australia that have applied, so the message is getting out there. We put ads in international newspapers. We have really made a huge effort.

Ms Withers—They deliberately put us in Communities and not in Child Protection so that they were not dealing with the agency that they could blame for abusing them. But, yes, we are the bureaucracy. As cuddly as we are trying to be, we are still the bureaucracy. We accept that, but we are bending over backwards.

Dr Rock—Trust is a very big issue, as you said, and it is one of the reasons why people will not apply, I know. But in my experience as a senior redress officer—so far there are four of us and we often go out and help people with their applications and we actually do applications if they ring through to Redress—people are amazed at the level of support that they get. I do not know how many times applicants have said to me, ‘I can’t believe I am dealing with a government department.’ So the staff are fantastic. They are all totally on the side of the applicants and a great majority of those applicants are really quite amazed at the level of support and compassion they are getting. Yes, it is fantastic.

Senator SIEWERT—You said you were looking at providing support while applicants wait.

Ms Withers—Yes, we probably will be engaging a community development model, which probably plugs into some of the evidence that I heard being given, because we have had a bit of a look at what kinds of models are successful in supporting care leavers. They obviously are community based, trust based, group-strengthening models. We are looking at that to provide group support across the state for people while they wait. It is at the relatively early stages still, but we are negotiating with a private not-for-profit organisation which offers that service across the state.

Senator SIEWERT—Presumably you will make an announcement about that as the application period closes. Is that the idea?

Ms Withers—Yes, we hope to. Now that we have all their names and addresses, we will be communicating very frequently with our applicants, because we are aware that some of them have fairly unrealistic expectations about how quickly we are going to pay them. So we would like to keep up a really constant stream of communication. We will be encouraging the service providers to also communicate with people and manage their expectations.

Ms O’Reilly—We will also keep open the 1800 number and have social workers on the end of that line to offer assistance or counselling over the phone.

Senator SIEWERT—Thank you.

Senator HUMPHRIES—In light of the time, I will just ask one question. When cabinet was putting this together, was any approach made to any of the agencies in Western Australia who had been providing this kind of care—to the partners in the scheme—to contribute to the cost of the scheme?

Ms Withers—No, not as far as we know.

Ms O’Reilly—There was a public meeting that the minister held with all major stakeholders to get input from them. That was in October 2007. Then the scheme was announced in December 2007.

Senator HUMPHRIES—It did not lead to any greater participation in this scheme. Do those providers play any role in the scheme today?

Ms O'Reilly—The interesting thing about this scheme is that our staff has actually changed over about 150 per cent, but we, and especially Stephanie, are making a huge effort to engage major stakeholders and work with them on a regular basis. People have been fantastic.

Senator HUMPHRIES—Thank you.

CHAIR—Through the generous provisions of records.

Senator HUMPHRIES—Yes.

CHAIR—Does anyone from your group have anything to do with the memorial project, or is that totally separate?

Ms Withers—That is totally separate, run by the Department for Child Protection. It is a memorial for all children in care. Those who were abused are a subset of that, so we have contributed, as you saw in the submission, some money but it is being managed out of child protection.

CHAIR—Thank you for your evidence and thank you for the guidelines that you provided today. I know that Senator Siewert in particular will be following the Western Australian experience very closely. The committee is now suspended until Monday, when we will be in Brisbane. Thank you very much.

Committee adjourned at 1.04 pm