SENATE INQUIRY INTO CHILD MIGRATION

Submission by
the Department of Immigration and Multicultural Affairs

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Part 1

Preamble

Introduction

Child migrants were first sent to Australia from the United Kingdom in the late 19th and early 20th centuries as a result of the efforts of British philanthropists motivated by 'child rescue' considerations. Small numbers arrived prior to the first World War, increasing significantly in the 1920s and 1930s, with the establishment of the Fairbridge Farm School, Barnardo's, and Christian Brothers institutions. It is estimated that approximately 3,500 children were sent to Australia prior to the Second World War. The majority of these children were sent to homes in Western Australia and NSW.

The end of the Second World War marked a significant shift in government policy influenced by defence and economic considerations - 'populate or perish' was the slogan of the day and large scale immigration was central to these policies. In 1945, the Department of Immigration was established and Australia's new immigration policy was launched in Parliament by the Immigration Minister Arthur Calwell. Post war child migration represented a small part of this larger immigration program which has resulted in more than 5.7 million[1] migrants coming to Australia since 1945. The *Immigration* (*Guardianship of Children*) *Act 1946* (IGOC Act) gave the Minister for Immigration guardianship responsibilities for certain child migrants in Australia.[2] The IGOC Act envisaged that the Minister would delegate his powers and functions in relation to child migrants or matters under the Act to State welfare authorities. These delegations were effected shortly thereafter (refer Annexure A). The IGOC Act framework remains the legal basis upon which the arrangements for children who enter Australia as unaccompanied minors under the humanitarian program or who enter on an adoption visa are made today.

[1] Department of Immigration and Multicultural Affairs. *Fact Sheet 2*. Key Facts on Immigration p.1
[2] Currently the Act does not apply if the immigrant child enters Australia under the care of a parent, or relative over the age of 21 years.

Framework of submission

The main body of this submission is prefaced by an analysis of key issues which highlight significant elements of the submission (examined in greater depth later on). The introductory analysis also discusses some issues which are relevant to, but not specifically covered by the Terms of Reference.

The specific Terms of Reference of the Inquiry are addressed in the broad sense since the Commonwealth was not directly involved in the day to day care and supervision of child migrants in Australia. Many of the issues relating to the treatment of children in institutions can be better addressed by State governments, to which successive Ministers delegated their powers and functions and by the institutions themselves. As the Immigration Minister's role of guardian only commenced in 1946, the main focus of this submission is on child migration that occurred in the period after World War II.

This is a Departmental submission, which takes into account input received from other portfolios. Departments consulted were: the Department of Prime Minister and Cabinet, Department of Finance and Administration, Department of Foreign Affairs and Trade, Attorney-General's Department, Australian Government Solicitor's Office, the National Archives, the Department of Family and Community Services and the Department of Health and Aged Care.

In piecing together the historical evolution of government policy over the last half of the 20th century we have relied where possible on Departmental and other official Commonwealth documentation of the period. It has been necessary to supplement these materials by drawing from the secondary sources listed in the bibliography. This has enabled us to present only a view, built up from examples of particular practices in different States. To obtain a comprehensive, national picture of child migration over the period, a researcher would need to consult material in the National Archives, the various State archives and in the archives of religious and community organisations, a task that might take many months if not years. Many of the records of the period have been destroyed or lost due to the length of time that has elapsed. Some commentators[3] have claimed records were deliberately destroyed by some institutions 'in the children's interests'– to protect them from the stigma of illegitimacy.

[3] Alan Gill, *Orphans of the Empire*, 1997, Millennium Books, NSW p. 83-86

This submission outlines the Commonwealth's role and responsibilities in respect of the various child migration schemes over the 20th century, describes the social and political context in which the schemes operated and sets out the measures that have been taken to assist former child migrants. Government, specifically Commonwealth Government involvement in these schemes, as referred to in the Terms of Reference, can only be understood in this context. This background provides the basis on which the Government's views on matters such as compensation and the issue of an apology are explained.

Key issues

A number of key issues are pertinent to understanding the Commonwealth's role and responsibilities in relation to child migration. These are discussed below.

Who were the child migrants?

A key issue from a contextual point of view is that the term 'child migrant scheme' has been applied to a range of significantly different child, youth and family migration schemes, operating, at times concurrently, from the post war period to the early 1980s.

However, the 'child migrants' who have been the main focus of concern in recent decades were those children who were brought, in relatively small numbers, from institutions in the United Kingdom to institutions in Australia, over a limited period, from the late 1940s to the early 1960s.

Children and youths migrated to Australia under a number of schemes, some of which, like the Big Brother Movement, were entirely voluntary and involved the migration of youths (largely 16 and over) to take up training and employment opportunities.

Schemes such as the Big Brother Movement provided mentoring and support for the youths once they arrived in Australia and actively encouraged them to retain contact with family members in the United Kingdom. Under other schemes such as the one parent and two parent schemes, children migrated in advance of or accompanied by one or both parents.

Such schemes were significantly different from those which brought children under 16 years of age to Australia who had been living in institutions in the United Kingdom and had no family ties or contacts in Australia. These 'child migrants' sent from institutions in the United Kingdom to institutions in Australia are the main subject of this submission.

How Many Children Were Sent from Institutions in the United Kingdom to Institutions in Australia?

Some reports have placed the number as high as 10,000. However, this is probably a better estimate of the total number of children and youths (under the age of 21) migrating under the various schemes described above over time. Department of Immigration records indicate that in the post war period the number of children sent from institutions in the United Kingdom to institutions in Australia is unlikely to have exceeded 3,000. Most of these children arrived in the late 1940s and early 1950s with the numbers declining sharply after the mid 1950s and virtually tapering off altogether by the early 1960s. Figure 1[4] below shows the differences in the proportion of children who were under 16 at the time of arrival and who would have been placed in institutional care and those 16 years and over and likely to have arrived under voluntary youth migration schemes. The detailed statistics are provided at Attachment A.

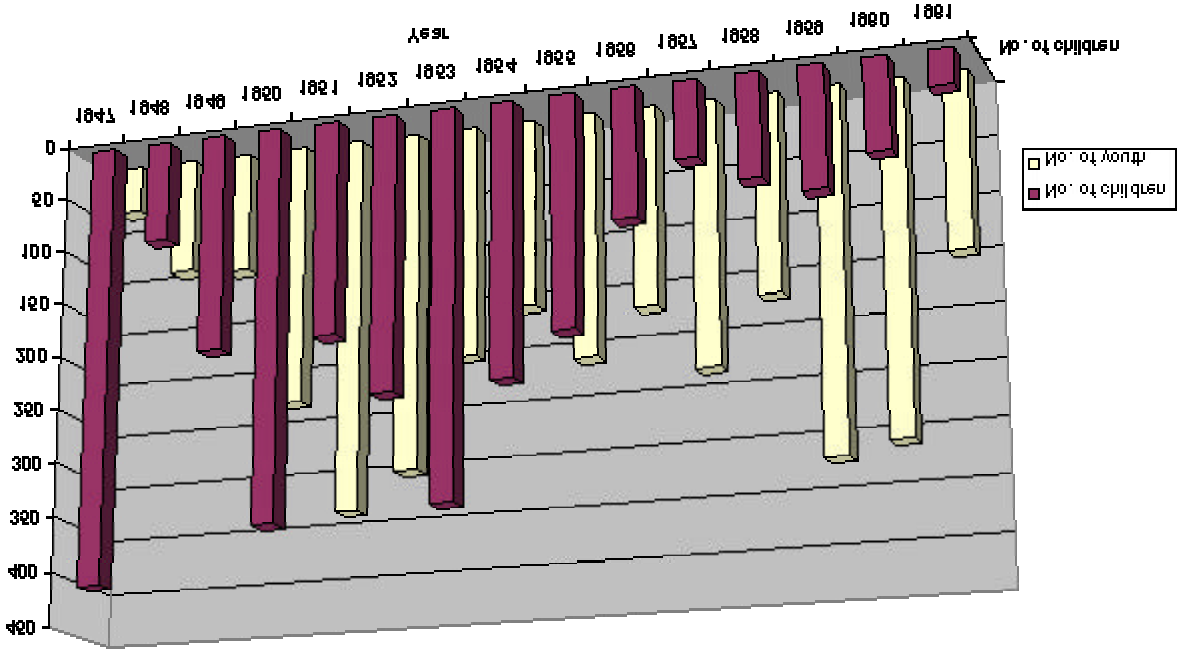

Figure 1
Child/Youth Migration 1947 - June 1961

What arrangements did the Minister make for his responsibilities as guardian to be carried out?

Under the IGOC Act the Minister for Immigration was designated guardian of the child migrants, and delegated his powers and functions to certain positions within State Government welfare authorities. Delegations under the IGOC Act and Regulations granted wide powers and functions and imposed certain duties upon state authorities in relation to supervision of the welfare and care of the children. This was

[4] Department of Immigration, July 1961, *Quarterly Statistical Bulletin, No. 39,* p. 11

consistent with practical considerations. Child welfare matters were a State government responsibility and the local state authority was likely to have a better knowledge of the rights, powers and responsibilities of guardians and custodians under its child welfare laws and a better understanding of local conditions. Furthermore, officers of the State authority dealing with child welfare matters on a regular basis were better equipped to deal with these matters than staff of the Immigration Department. Similar responsibilities are vested in State government authorities in relation to the care of humanitarian minors today for similar reasons.

The Commonwealth contributed financially to the support of the child migrants in conjunction with the States and the institutions, and was involved in some monitoring of the welfare of the children. However the Commonwealth's involvement appears to have been in conjunction with State governments in response to particular concerns that had been raised, or at the instigation of the British Government.

What was the motivation for Commonwealth involvement in the schemes?

The intention of the Commonwealth government in bringing child migrants to Australia was partly humanitarian and partly in line with the larger objectives of the post war migration program.[5] The concept of rescuing 'war babies' and underprivileged children from orphanages in war torn Britain and offering them a new life in Australia had popular appeal, and the fact that these migrants were children was thought to give them an advantage in being able to more readily adapt and "assimilate" into the Australian community. Economic and defence considerations were also a factor. Like other migrants these children would eventually supplement the labour force but would not immediately take jobs away from returning ex-servicemen. They were of course also part of the larger immigration scheme aimed at massively increasing Australia's population in the post war period.

What are the parallels between child migrants and separated indigenous children?

Some recent media and other commentary has drawn parallels between the circumstances of British child migrants and those of Australian indigenous children separated from their families, claiming that the Commonwealth Government's role was similar in both cases. While child welfare considerations were a motivating factor in both cases, there were also fundamental differences.

The main issue considered in the Human Rights and Equal Opportunity Commission's (HREOC) *Bringing Them Home Report* was that of the actual practice of indigenous child-parent separation, and its long term effects. By contrast, British child migrants (as distinct from youth) were

[5] Arthur Calwell, Immigration Policy and Progress, 1949; Barry Coldrey, *Child Migration, the Australian Government and the Catholic Church 1926 - 1966*

transferred from institutional care in the United Kingdom to institutional care in Australia. The separating of children from parental responsibility occurred prior to their arrival in Australia, sometimes many years beforehand, and was administered by the relevant British authorities.

The social context and attitudes to institutional care

While the idea of a 'child migration scheme' may seem unlikely today, the schemes need to be understood in the context of the time, and any analysis of the care of the children in the institutions must be made with reference to the care of children generally in institutions in Australia in those days. Child migrants represented a very small proportion of children in institutional care in Australia at any given point in time.

Table 1 shows that in 1954 for example, there were over 27,000 children in institutional care – just over 6 % of whom were child migrants[6]. In many cases child migrants were placed in the same or similar institutions as Australian children who were wards of the state.

Changing social attitudes and attitudes to child care in the United Kingdom in the post war period and the 1950s led to a movement away from institutional care towards foster care and cottage style accommodation and a greater understanding of the need for children to be living in an environment which more closely approximated that of the family. More attention was placed on the emotional and psychological needs of the child.

These ideas appear to have taken longer to permeate Australian thinking. Traditional orphanage style accommodation where children were housed in dormitories still operated on a large scale basis in the 1940s and 1950s. The advantages of foster care and 'cottage style' accommodation over institutional care were increasingly recognised by professionals in children's mental health and welfare during this period. However, those ideas took some time to influence policy and even longer to be applied in practice. In the community generally at that time there appears to have been considerable faith in the capacity of the religious and charitable institutions to provide the children with a good upbringing and sound values and training to enable them to become productive members of society.

It was not until the 1960s that attitudes to child care and child rearing in Australia began to change in the community at large. Existing practices were questioned and alternative types of care outside the institutional context were explored more widely. The emergence of social work as a profession appears to have had a significant impact on the treatment of children in care, with a greater reliance by governments and institutions on their guidance in establishing and maintaining appropriate standards. The trend away from institutional

[6] Based on previously cited Department of Immigration statistics calculating the number of child migrants 16 years and under in 1954 as a percentage of all children in institutions in 1954.

care in Australia was gradual and there were still over 20,000 children in institutions in 1972. This number had halved by 1981 and has fallen to just over 1,000 today.

Year	No. of Children	No. of Institutions
1946	18,989	342
1954	27,397	387
1972	20,789	485
1976	14,586	504
1981	10,418	562
2000	1,165	124

Table 1
Number of Australian children in Institutions 1946 – 2000[7]

What has the Commonwealth done to assist child migrants to reunite with their families and receive counselling about their experiences?

This issue is dealt with in more detail under the section of the submission titled *Responses to the Legacy of Child Migration Schemes*. A key issue is that prospects of reunion are a recent phenomenon. At the time the schemes operated the importance of children's advocacy and complaints mechanisms, after care and counselling services were not understood or in place generally for children in Australian institutions.

In recent years, a number of former child migrants have expressed concern they were denied contact with their families, and were given inaccurate information about their parents. Some have claimed that they were told their parents were dead, when in fact one or both parents were still alive. This practice appears to have been common in institutions in both the United Kingdom and Australia at that time in relation to children who were illegitimate. The motive appears to have been to avoid the stigma associated at that time with illegitimacy – it was thought better for the child to be seen as an orphan rather than as illegitimate, while at the same time, it protected the privacy of the unmarried mother.

[7] Compiled from information made available by the Department of Family and Community Services, data from Annual Reports for those years.

The Forde Inquiry[8] into the Abuse of Children in Queensland institutions reported in 1999 that children in institutions in Queensland were frequently separated from siblings, and that severe restrictions were placed on contact with family members. The importance of family contact and reunion was not understood. Significantly, it is only recently that state and territory government legislation has enabled adopted children to access birth certificates and trace family members.

As complaints about the treatment of former child migrants in institutions became known and the need for counselling and tracing family members understood, measures were taken by the Commonwealth to provide assistance and support. The Child Migrants' Trust has received funding from the Department of Immigration and Multicultural Affairs since 1990 to assist former child migrants. The Trust is also funded by the British Government and the Western Australian government. These services complement the broad range of health and welfare services including counselling and mental health services provided by state governments.

The Australian government also has for many years assisted child migrants to access their records through the National Archives.

Grounds for Compensation?

This issue is dealt with in more detail in the section of the submission titled *Measures of Reparation Including, But Not Limited To, Compensation And Rehabilitation*. In summary, the Australian Government, like the British Government is of the view that support and practical assistance for child migrants is more helpful than compensation. It has also been a longstanding position of the Commonwealth, that compensation payments are only made when there is a legal obligation to do so, or in limited exceptional cases, which it is considered do not apply here. If in an individual case, legal liability is proven, a court would decide on the level of compensation.

Conclusion

British child migrants were treated much the same way as other children in institutional care at that time, and share with others a sense of loss of their natural parents. An arguable difference is that they may have experienced a sense of exile from their country of origin. Measures taken to assist child migrants have focused on addressing their current needs, rather than other forms of compensation.

The Department would be available to serve the Committee in any way as required by the Committee in the course of its inquiry.

[8] Leneen Forde AC, Chairperson *Commission of Inquiry Into Abuse of Children in Queensland Institutions*, GOPRINT May 1999, p. 79

Part 2

Response to Terms of Reference

1. Overview of Child Migration Schemes

Sets out contextual background and addresses Term of Reference (a).

Term of Reference (a) focuses on the care and treatment of child migrants in institutions, however as noted earlier, the Commonwealth's role did not involve day to day care. The powers and functions of the Minister as guardian, including the power to select suitable custodians and place child migrants in the care of custodians were delegated to state welfare authorities. The Commonwealth played a role in part funding institutional capital costs and in providing Child Endowment payments. In the post World War II period, the Commonwealth also took primary responsibility for liaising with United Kingdom authorities on child migrant issues.

Term of reference (a) infers that both "government" and "non-government" institutions were responsible for the care of child migrants. The Department's understanding is that no government institutions were involved - all the institutions caring for child migrants were run by charitable or religious organisations.

In order to fully understand the Commonwealth's role in the child migrant schemes it is necessary to have an appreciation of the social, political and economic context in which the schemes operated and the roles of the other parties involved - in particular, the relevant United Kingdom authorities, the State governments and the institutions themselves. This part of the submission sets out the Commonwealth's role in that context.

Origins of the Child Migration Scheme – Overview of Schemes pre 1945

Factors that influenced the emigration of British children

Child migration policy in the United Kingdom at the beginning of the 20th century was influenced by philanthropic, imperialist and socio-economic considerations. It was seen as a means of rescuing underprivileged children from the physical and moral dangers of the slums; as an investment in Empire by binding the colonies to the mother country; and as a solution to problems of unemployment and overcrowding in the cities.

British religious and benevolent institutions saw emigration as a means of creating opportunities for abandoned children. Many of the children sent abroad had been placed in institutions because they were illegitimate, a label which in those days, and indeed up until recent times invoked social ostracism. It was thought to be in the child's best interests to be thought of as an orphan rather than as illegitimate, and to be given a fresh start in life in a new country.

As Sir Paul Hasluck noted in *Shades of Darkness*:

> *"In those days, among measures to help underprivileged children in cities in the British Isles the idea of lifting them in a new environment was promoted, with reforming zeal. Dr Barnados' Homes, the Kingsley Fairbridge Child Migration Scheme, the Big Brother movement, the social work of the Salvation Army and many other smaller movements all found hope for the underprivileged in lifting them out of squalor, poverty, or lack of opportunity and giving them "a better chance" in a new environment and, in the case of Child migration schemes, in a new land of opportunity"[9].*

In the late 19th and early 20th centuries controls were increasingly put in place to safeguard the welfare of children in institutions in the United Kingdom and the colonies. In fact adequate state controls and welfare of children was of concern to most Australian states in the early 1900s:

> *"As in Britain there had been an emerging movement throughout Australia to develop and extend legislation over voluntary child welfare organisations and to take firmer steps to regulate the lives of both 'delinquent' and 'neglected' children. The Western Australian State Children Act of 1907 was based upon*

[9] Sir Paul Hasluck, *Shades of Darkness*, Melbourne University Press, 1988, pp. 16-17

> *legislation already enacted in most of the other Australian states…"*[10]

The legislative basis for British funding of the child migrant schemes was the *Empire Settlement Act 1922* (UK), which permitted the British government to channel funds to non-government organisations in support of their migration work. Official British support for the Empire settlement schemes is highlighted by the text of a speech by the Prince of Wales in support of the Fairbridge Farm School in 1934:

> *"…by sending out these carefully selected children and training them for useful careers in the land which is to be their home, the system should be capable of providing a steady flow of* good *citizens to the Dominions and the Colonies. "*[11]

There was no Commonwealth legislation governing the migration, settlement or guardianship of migrant children during this period. Prior to 1920, assisted migration was handled by the States. In 1920, the Commonwealth and States entered into a joint scheme, with the States' responsibilities being reception, settlement and after-care. From the information available it appears that State/Territory child welfare legislation and the general law covered custody and guardianship arrangements for the children.

Between 1940 and 1946 guardianship of some "overseas children" was regulated by the *National Security (Overseas Children) Regulations 1940* (Cth). This legislation appears to have been introduced pursuant to an arrangement between the United Kingdom Government and the Commonwealth Government to facilitate the custody and care of "evacuee children" during the war years. Child migration schemes, as distinct from the temporary evacuation of children during the war, did not operate in Australia during this period. Guardianship vested in the State authorities once the children arrived in Australia, and the States had the power to place children with suitable custodians. It was not until the IGOC Act 1946 that the Commonwealth enacted legislation in relation to child migration.

Agencies involved in child emigration

The numbers of children sent to Australia from the beginning of the 20th century to the period immediately prior to World War II has been estimated at around 3 500[12]. The most significant schemes involved in

[10] Geoffrey Sherington and Chris Jeffery, *FAIRBRIDGE Empire and Child Migration*, University of Western Australia Press, Nedlands, 1998, p. 49

[11] British Government submission to the House of Commons Health Committee Inquiry into Child Migration, 1997/98, paragraph 23

[12] Estimates based on numbers of children sent to Barnado's, Fairbridge and Catholic Institutions. Sherington and Jeffery, op. cit., p.265, Minutes of Evidence, Document 3. House of Commons Health Committee Inquiry into Child Migration, 1997/98, Table 1, Memorandum by Barnardo's *Welfare of Former Child Migrants*, to the House of Commons Health Committee Inquiry into The Welfare of Former British Child Migrants, CM 110 Section 2.3, 1998

child and youth migration to Australia during this time were the Dr Barnardo's schemes, Fairbridge Farm School, the Big Brother Movement and the Christian Brothers.

Barnardo's

The most well known late 19th century scheme was run by Dr Barnardo, an evangelical philanthropist who supported schemes to board children out away from the slums of London to rural parts of England and the colonies. While there were some criticisms, public perception of the early schemes was generally positive.

> *"the reputation of Dr Barnardo was at its height in the early 20th century; he was praised as a social reformer who held out hopes of relieving the distress of urban life and offering opportunities for children to have a new life in the colonies"*[13].

Barnardo's initially sent children to the Fairbridge Farm school in Western Australia and subsequently established an institution in NSW in 1928. Approximately 2 000 children were sent to Australia by Barnardo's prior to World War II.

Fairbridge

Fairbridge was also a philanthropist. In 1912 with the assistance of the Western Australian government he established a Farm School at Pinjarra to accommodate and train underprivileged British children in farming techniques.

He expanded the scheme in the 1920s and obtained funding from the Commonwealth, Western Australian and British governments "even though the federal immigration officials continued to oppose the arrangements and argue against the cost benefits"[14]. The tripartite funding arrangement with contributions from the British, State and Commonwealth governments established a precedent for future funding of child migration schemes to Australia. Approximately 1200 children had been placed with Fairbridge by 1939.

Big Brother

The Big Brother Movement (BBM) was established in 1925 to provide British male youths with the opportunity to migrate to Australia for training and employment purposes. It was a voluntary scheme open to boys between the ages of 15-19. These youths, known as "Little Brothers" would be met in Australia by a "Big Brother" who would oversee the youth's development until the age of 21. Patrons and office bearers of this scheme included British Royalty and Australian State Governors as well as senior retired military personnel. According to

[13] Sherington and Jeffery, op. cit., p.13
[14] ibid. p. 105

BBM reports, virtually all those who migrated to Australia in the early years of the scheme settled successfully in Australia[15].

Christian Brothers

The idea of a Catholic child migrant scheme had been canvassed in the early 1920s by the Christian Brothers in Western Australia partly as a means of establishing a Catholic alternative to the Fairbridge Farm school.

The Christian Brothers Scheme was finalised in 1938 with both the Western Australian and Commonwealth governments agreeing to provide a subsidy. Approximately 100 boys were sent prior to 1939. Coldrey notes "Catholic child migration of the 1930s (was); small-scale, privately organised (with small government subsidy); and motivated by sectarian and child rescue considerations."[16]

Child Migration Schemes since 1945

Between 1947 and the early 1960s approximately 3000 children were sent to Australia from institutions in the United Kingdom under the child migrant schemes. In recent years most commentary has been about the negative effects of their migration. At the time a more acute consideration was whether they were luckier than those who stayed behind?

Barnardo's reflected on this issue in its submission to the British House of Commons Health Committee's Inquiry into the Welfare of Former British Child Migrants:

> *"Child migration was historically seen as best practice, although there was some contemporary dissent. Today schemes where deprived children are shipped to another continent, cut off from former family and friendships, seem inhuman. A parallel may be drawn with current inter-country adoption which will likely shock future generations. The prevailing ethos was one of "rescue". It is difficult to evaluate with any degree of scientific rigour what in today's language would be termed "outcomes" against the potential for the children had they remained in United Kingdom residential homes. Care in the United Kingdom has proved a miserable experience for many and an abusive one for some".*[17]

[15] Big Brother Movement Ltd, *Big Brother Movement 1925-1987 British Youth Migration Overseas Experience Awards for Australian Youth Agricultural College Scholarships for Rural Youth*, published by Big Brother Movement Ltd, 1987, pp. 9-10

[16] Barry Coldrey, *Child Migration, the Australian Government and the Catholic Church 1926 - 1966*, Tamanaraik, Box Hill, 1992, p.35

[17] Memorandum by Barnardo's *Welfare of Former Child Migrants*, op. cit., Section 4,

'Populate or perish'

Strategic and defence considerations arising from World War II had a profound impact on Australian social policy and were the genesis for Australia's post war immigration policies. As the then Immigration Minister, Arthur Calwell, wrote:

> *" Additional population is Australia's greatest need. For security in wartime, for full development and prosperity in peacetime, our vital need is more Australians. The Pacific War taught us Australians a lesson we must never forget – that in any future war we can never hope to hold our country unaided against a powerful invader."*[18]

Australia was a large, sparsely populated country with densely populated neighbours at its doorstep. 'Populate or perish' was the slogan; mass immigration was seen as the solution. This policy had bipartisan support in Parliament, and wide community acceptance. The need to defend Australia's shores against the possibility of invasion, a declining birthrate, and an urgent need for labour provided the justification for a significantly increased immigration program.

Consideration of children in the migration program

The involvement of children in this program was considered at an interdepartmental committee on postwar reconstruction in 1944. In the context of increased adult migration, the Commonwealth Government undertook to take every available opportunity to facilitate the entry into Australia of accepted children from other countries.

The Government had already approved in principle a plan to bring to Australia in the first three years after the war, 50,000 orphans from Britain and other countries.

The policy was inspired by humanitarian concerns but economic factors also played a significant role. Unaccompanied children were seen as 'ideal migrants' as it was believed that children would adapt easily and would not provide any immediate employment demands.[19]

The plans for child migration schemes were made in consultation with the State Governments.[20] It was decided that as far as possible the Commonwealth Government would rely on private organisations such as Barnardo's, Fairbridge and the religious organisations, to promote child migration. Neither private fostering nor adoption of child migrants was favoured, partly for legal reasons as the death of the parents of refugee children might be impossible to determine.

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[18] Arthur Calwell, *IMMIGRATION Policy and Progress*, Cecil John Morley, Melbourne, 1949, p11
[19] ibid. p. 32
[20] Commonwealth of Australia. *Agenda. Conference on Immigration to be held between Commonwealth and State Ministers at Parliament House Canberra, Monday 19 August 1946*, unpub.

However it soon became evident that the target of 50,000 abandoned children could not be reached. The belief that the war had created a greater number of orphans, 'war babies', in Britain was soon dispelled. Other European governments proved unwilling to send children dislocated by the war as they considered that it was their own responsibility to care for the homeless and orphaned.

Changing United Kingdom attitudes to child migration in the post war period

In the United Kingdom, the social conditions and attitudes which had led to many children being sent abroad were changing. Poverty was reduced and the social services of the welfare state were being extended. The majority of war orphans were adopted to British families and British social security legislation made life more tolerable than it had been for sole parents and their children.

However there were still some children whom the British Government identified as suitable for emigration:

> *"In 1944, Mr. W. Garnett, a British High Commission official prepared a major report on the Fairbridge Farm schools. He advised that changing economic conditions and improving social welfare legislation in Britain would reduce the numbers of children who would be emigrated appropriately. Extreme poverty and utter destitution and their effects were on the decline. However, Garnett identified three groups of children for which emigration could be an appropriate placement option:*
>
> 1. *The illegitimate child who is deserted by both parents;*
> 2. *The illegitimate child whose mother having married later feels unequal to absorbing it into her family;*
> 3. *The child of parents who are incapable of maintaining a steady household and therefore relinquish responsibilities.*[21]

The *Care of Children Report (Curtis Committee) 1946* provided the foundation for the modernisation of British child care services and was unenthusiastic about child migration. The report noted that children of 'fine physique' and 'good mental equipment' should be kept in the United Kingdom since for these young people 'satisfactory openings can be found in this country'. On the other hand, a role was still seen for child migration in respect of certain especially deprived children 'with an unfortunate background' for whom a start in a new country could be 'the foundation of a happy life.'[22]

[21] Barry Coldrey, *Child Migration, the Australian Government and the Catholic Church, 1926 - 1966*, Tamanaraik publishing, Box Hill, 1992, p. 20
[22] Report of the Care of Children Committee, Cmd. 6922, as quoted in Coldrey ibid., p. 54

Coldrey goes as far as to suggest that a certain amount of expediency may also have been part of the motive:

> *"To overstate the case, and express matters somewhat crudely: in the late 1940s; early 1950s, Britain had exported its child care problem cases to Australia. This left the British care community the opportunity to devise more advanced approaches to children in care."*[23]

Even though there was British government support for the schemes during this period, social attitudes in the United Kingdom towards child migration and childcare in general had changed.

Legislative basis for post war child migration

Prior to their arrival in Australia, the Commonwealth Minister for Immigration was not the guardian of the children and the selection and departure of the children did not come under any Australian legislative framework.

The IGOC Act gave the Minister for Immigration legal guardianship of child migrants when they arrived in Australia.

The IGOC Act was introduced to enable the Minister for Immigration to continue to act as legal guardian of evacuee children remaining in Australia after the National Security (Overseas Children) Regulations ceased to have affect in 1946. The Act also placed legal guardianship in the Minister for Immigration for child migrants who arrived after the Act was introduced. The intention of the Act was to enable uniformity in regard to legal guardianship of the children. It was not intended that the Commonwealth exercise direct control over the migrant children, but that State Authorities should assume that role in a similar way as they had done with overseas children under the National Security Regulations.[24]

Subsection 5 (1) of the Act enables the Minister to delegate his functions and powers as guardian "to any officer of authority of the Commonwealth or of any State or Territory so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters or the child or class of children, specified in the instrument of delegation." The Minister delegated his powers as guardian of child migrants to State welfare authorities shortly after the legislation was enacted (Refer Annexure 1).

The statutory scheme established by the IGOC Regulations envisaged that the State authority would be primarily responsible for supervision of the welfare and care of child migrants. The local State authority was likely to have better knowledge of the rights, powers and

[23] ibid., p. 78
[24] Commonwealth of Australia. Agenda Papers, *Conference on Immigration to be held between Commonwealth and State Ministers, 19 August 1946*, unpub., p.9.

responsibilities of guardians and custodians under child welfare legislation and a better understanding of local conditions. In addition to this, officers of the State authority dealing with child welfare matters on a regular basis were better equipped to deal with these matters than the staff of the Commonwealth Immigration Department. Also, from a purely practical perspective, two layers of supervision of custodians, one by the State authority and one by the Minister, would have added to administrative cost and complexity.

This understanding of the role of the States in supervising the care of child migrants was noted by then Immigration Minister Holt in his parliamentary response to questions on the care of British child migrants in 1951:

> *"When the immigrant children arrive in Australia they immediately come under the provisions of the Immigration (Guardianship of Children) Act. The Powers of the Minister for Immigration as legal guardian of the children are by delegation administered by the child welfare authorities in each State, who regularly visit institutions where immigrant children are located."*[25]

Indentures were made between the delegated State government welfare officials and voluntary organisations in which the organisations agreed to 'bear all responsibility for the care and welfare' of the children placed under their care (An example is provided at Annexure 2).

Further evidence of how the IGOC Act was interpreted at the time is found in internal briefing papers of the period:

> *"The purpose of this Act is to ensure that 'immigrant children' up to the age of 21 years, especially those who are deprived of normal home life overseas, are provided with the care, training and supervision, which they would normally receive from their parents or next of kin. The Act also protects the interests of those young people who emigrate primarily on their own initiative to start a new life in this country.*
>
> *The Minister's delegates under this Act are the Child Welfare Authorities in each State, who are in a position to exercise direct supervision over the welfare of the 'immigrant children' settled in the State."*[26]

Operation of the schemes

An insight into the Commonwealth's role in relation to the processing and conveyancing of British child migrants to Australia at the time the

[25] Commonwealth of Australia Parliamentary Debates (Hansard), House of Representatives, 13 March 1951, Vol. 212 p. 340
[26] Department of Immigration, *Overseas Tour of the Secretary 1952*, Section T, unpub., p. 3

schemes operated is found in the same internal briefing papers referred to above:

> *"Case committees attached to recruiting organisations in the UK examine each child's details, before recommending emigration. Final selection of the children, based on medical examinations and general suitability as regards temperament and intelligence is made at Australia House, London.*
>
> *Escorts for children are provided in the proportion 1 to 7 at United Kingdom/Commonwealth expense in most cases. Returning Australians are frequently appointed as escorts. In addition, the services of a Welfare and Information Officer, appointed by this Department, are available on each migrant carrying vessel.*
>
> *State Immigration and Child Welfare officers meet the vessels carrying child migrants and supervise their transfer to the charge of the voluntary organisations concerned.*
>
> *Before children nominated by a voluntary organisation are permitted to sail, the authorities of the State concerned, the Commonwealth and the United Kingdom, must first recognise the nominating body as an approved organisation suitably equipped to accommodate, train and provide and care for migrant children."*[27]

Attachment B also from these papers, demonstrates the standards required for approval of organisations.

Commonwealth funding arrangements

The Commonwealth and the States each agreed to fund one-third of approved capital expenditure required by the organisations to provide accommodation and facilities for child migrants. The organisation was required to fund the remaining third. In addition to this, organisations received payments of Child Endowment from the Commonwealth as well as an equipment allowance if the child was under 14 years at the date of sailing to Australia.

Inspections of children's Institutions

While inspections of children's institutions were the responsibility of relevant State government agencies, the Commonwealth did take an interest in the care arrangements usually in conjunction with the State government, or at the specific request of the British Government.

As Coldrey notes in *The Scheme: The Christian Brothers and Childcare in Western Australia:*

[27] ibid., p. 2

> *"there were many inspections of Boys' Town by government officials of many departments – and indeed all the state subsidised Children's Homes. After World War II and with the renewal of child migration there was a veritable orgy of inspections of these institutions: from the Commonwealth and State Immigration Departments; the Education Department, the Health and Child Welfare Departments; plus special British investigators: Miss E Harrison, Scottish Home Department, 1950; Mr John Moss, 1952 and Mr John Ross, 1956."*[28]

In WA regular inspections were undertaken by the State Welfare authorities accompanied at times by State Immigration and Lands Department officials, and it is reasonable to assume such inspections occurred in other States. In relation to an inspection of Clontarf in Western Australia, Coldrey notes:

> *"on 1 May 1947, a large team from Child Welfare and the Immigration departments inspected the Institution (Clontarf) to see if it was a fit and proper place to receive British boys from the overcrowded Catholic orphanages of the United Kingdom. The inspectors were most unimpressed with Clontarf as things were (and).. deemed it unsuitable until 'significant improvements had been made."*[29]

A month later, the Commonwealth Immigration Department notified the High Commission in London that no child migrants were to be allocated to Clontarf.

As a result, action was quickly taken to improve the institution and after a second inspection approval was granted. The inspectors noted that:

> *"much work has been accomplished here since our last visit in May. The buildings and grounds have been cleaned and an expenditure of 5000 pounds has been allotted by His Grace for urgent renovations and painting of the original buildings….*
>
> *A matron has been appointed and is in residence, and arrangements have been completed for the transfer of three trained sisters to Clontarf at the end of the current scholastic year".*[30]

In 1948 Castledare was inspected without warning by the Secretary of the Child Welfare Department, the State Government Migration Officer Mr E R Denny and two other inspectors. They were highly critical of conditions and recommended "that the Catholic authorities be advised

[28] Barry Coldrey, *The Scheme: The Christian Brothers and Childcare in Western Australia*, Argyle-Pacific, WA 1993, p. 314

[29] ibid., p. 146
[30] ibid., p. 148

that the conditions which exist at Castledare cannot be tolerated"[31]. Improvements were immediately introduced. Repeated inspections were made until the improvements occurred.[32]

The WA Trade School and Apprenticeship Scheme implemented in the Christian Brothers institutions also came under the scrutiny of the WA and Commonwealth government agencies. Considerable efforts appear to have been made by State and Commonwealth Departments to get the institutions to place the children in recognised apprenticeship schemes, education or in paid employment, however these efforts appear to have been resisted by the institutions for some time.[33]

Moss and Ross Reports

Two investigations into the situation of the child migrants were conducted by British government officials in the 1950s. These led to the publication of two reports: the Moss Report in 1953 based on John Moss's unofficial visit in 1951-52; and the Ross fact finding mission report in 1956.

Moss Report

The Moss report took a relatively positive attitude to the work of all the subsidised institutions and towards child migration itself. However, according to Coldrey[34], Moss's investigations prompted some closer scrutiny of the system. One outcome was the establishment of a Child Welfare and Migration Council comprising members of state welfare and migration departments as well as representation from religious bodies with institutions under their care, which agreed on a review committee to visit institutions and interview children.

Ross Report

The fact finding mission led by Ross as part of the decision making process for renewing subsidies under the *Empire Settlement Acts 1922* (UK) which were due to expire in 1957, criticised a number of Australian Institutions.

The Australian Government would not agree to the publication of the Report in its first version until Australian officials had visited the institutions. On 19 July 1956 Messrs. R.H. Wheeler, Assistant Secretary Immigration Department, Canberra, and J. McCall, Director Child Welfare Department, W.A. visited an institution at Bindoon. Their report opened with the following comment:

> *"We find it's extremely difficult to appreciate what prompted the Mission to report: 'It is hard to find anything good to say about*

[31] ibid. p. 181
[32] ibid., p. 183
[33] ibid., pp. 225, 227, 373-4
[34] ibid., p. 331

> *this place". In parts Bindoon is grandiose in conception and in other directions, eg. The bathing facilities, not of sufficiently (sic) satisfactory standard."*[35]

Wheeler and McCall suggested some general improvements and 'round table discussion' was arranged with the home's Management Committee to co-ordinate improvements. The Committee visited the Archbishop of Perth to discuss the situation, and arranged to re-visit the orphanage in three months time. They finished their report as follows:

> *"The Principal and Committee are anxious to receive more boys and we believe will put into effect the improvements and adjustments we selected. (Conclusion) We consider that provided the improvements selected are effected within three months, there is no reason why British boys should not continue to be sent here".* [36]

After this series of inspections, the Australian Government permitted publication of the Fact-Finding Committee's work which was low key in tone and expression but unenthusiastic concerning child migration.

1960s Onwards – Changes In Monitoring Practices

The inspectorial system of monitoring the care of children in institutions appears to have been the main mechanism in place until the 1960s. During the 1960s the traditional 'inspectors of orphanages' began to be replaced with university trained personnel with social work or equivalent qualifications. Child welfare theory and practice promoted an enhanced understanding of the child's psychological and social development, as well as a better understanding of the harmful effects of child abuse and neglect.

Standards began to be developed and a minimum quality of care established. Today's concept of quality assurance – which in children settings might include: entry and exit interviews, complaint mechanisms, advocacy and representation for young people, regular staff appraisal and routine internal evaluation - didn't emerge until recent decades.

[35] R.H. Wheeler, Assistant Secretary , Department of Immigration, Canberra and J.J. Mc Call, Director, Child Welfare Department , Perth visit to St Joseph's Farm and Trade School Bindoon, 17 July 1956 in Barry Coldrey, *Child Migration, the Australian Government and the Catholic Church 1926 – 1966*, p. 79

[36] ibid. p. 79

Institutional care and changing social values in Australia

> *"Child welfare systems and policies have always reflected the economic and social mores of the day".* [37]

In the post war period child care practices in Australia lagged behind those in the United Kingdom and for the most part Australian homes were still operating within the traditional institutional model of care. Australia's communication links with the wider world were not what they are today. 'Modern' ideas of child care theory and practice which were emerging as early as 1946 in the United Kingdom and reflected in the Curtis Committee Report (referred to earlier in the submission) had little impact in Australia in the middle 1950s "least of all" as Coldrey notes "in remote Western Australia".[38]

The significance of meeting children's emotional and psychological needs, while recognised in the psychiatric community, appears not to have been widely understood – instead State government legislation governing the welfare of children focussed on the need for children to be adequately fed, clothed and cared for, and to prohibit the use of excessive physical and emotional punishment.

Child migrants represented a small portion of children in institutional care. In 1946 there were 18,989 children in Australian institutions. By 1954 that figure had grown to 27,397. The treatment and care the children received in the child migrant institutions appears to have been similar to the treatment of children in institutions generally in Australia at that time.

Charitable and religious institutions in Australia continued to be seen to be exercising a largely positive influence on children in their care until the 1960s.

The Forde Inquiry notes that:

> *"a deeply held belief in the value of a religious upbringing was common in Queensland until the 1960s. Children sent to denominational orphanages and industrial schools were it was considered, being reared by respectable and pious persons in an environment not far removed from the upbringing a child would experience in any Christian family".* [39]

[37] Leneen Forde AC, Chairperson Commission of Inquiry Into Abuse of Children in Queensland Institutions, GOPRINT, 1999, p. 111

[38] Barry Coldrey, *The Scheme: The Christian Brothers and Childcare in Western Australia*, Argyle Pacific, WA, 1993, p. 187

[39] Forde, op. cit., p. 36

Evidence from the British inquiry into child migrants and from the Forde Inquiry suggests that at the time, those organisations providing institutional care had very little knowledge of the emotional or psychological needs of children.[40] Both inquiries found incidences of emotional, physical and sexual abuse of children and there was a lack of awareness generally of the possibility of sexual abuse. Mandatory reporting of child abuse is only a relatively recent phenomenon. In NSW, for example, mandatory reporting of suspected child abuse was introduced in 1977. Problems with institutional care were compounded by personal weaknesses of individual staff, insufficient staff, lack of childcare training, overcrowding, and low professional standards.

Residential facilities in Australia for children, until the 1970s tended to be run as large scale institutions housing numerous children in dormitory accommodation. As Forde notes, the size of the institutions meant that:

> *"maintaining order tended to prevail over the needs and wellbeing of individual children. Their size also militated against any integration with the local community, and any semblance of a family structure was virtually impossible."*[41]

Forde revealed that living conditions in Queensland homes during this period were generally of a poor standard, with many witnesses to the Inquiry complaining about the food, severe disciplinary measures, punishment for bed-wetting, suppression of individuality, lack of recreational time and limited education.

A former resident of one institution in the late 1950s and early 1960s recalled spending most of her time working. She:

> *"began work at the age of eight, working in the kitchen, waxing and polishing dormitories, and doing laundry duties. She emphasised that no help was received from outside the orphanage".*[42]

However, both the [Qld] Department [in charge of child welfare] and society in general believed at the time that if children were in the care of trusted religious organisations or 'good upstanding citizens' they would be safe.[43]

The decade of the sixties saw significant shifts in attitudes which continued into and beyond the 1970s. Hitherto accepted social values and practices were questioned, personal, ethnic and minority rights were subjects of public discussion. Modern theories of child development and parenting were becoming more widely understood and applied by society at large as well as by those responsible for the

[40] ibid., p.vii
[41] ibid., p. 63
[42] ibid., p. 81

care and treatment of children in institutions. State Welfare Departments and institutions began to employ and seek guidance from professional social workers in relation to the care of children. The idea of placing orphans in institutional care was widely questioned and other alternatives such as cottage homes, and foster care were preferred for the majority of cases.

A recently published paper from an Inquiry into "substitute care" in NSW[44] noted:

> *" In the 1970s… there was… an increased awareness of a child's needs for his/her family and the ill effects of institutional care on a child's development".*

Statistics on the proportion of children in care in Australia over the last half of the century (included in Table 1, in the Introduction to this submission) reflect the significant shift in thinking in relation to the model of institutional care that has occurred over time.

Other child and youth migration schemes from the United Kingdom

Big Brother Movement

The Big Brother Movement (BBM) resumed its operations in 1947 with many youths being trained in a BBM owned training farm. In 1950 a hostel was also established which served as a holiday home and convalescent hostel for those who were ill or injured. In the period 1947 – 1954, BBM publications state that nearly 1,500 youths migrated to Australia.[45]

In the ensuing years youths continued to migrate under the BBM scheme with a high of 476 in 1964.[46] Reflecting industry sector changes, increasing numbers of youth moved into technical and commercial occupations and became more urban-based.

BBM adapted by selling its training farm in 1971 when it became obvious that rural occupations were no longer attracting sufficient numbers to maintain its viability.

In the post-war era, BBM records indicate that approximately 5,000 youths migrated to Australia about 80% arriving between 1947-71. Migration under the BBM scheme represented the largest component of post-war child and youth migration, possibly accounting for as much

[44] Community Services Commission, Inquiry Into the Practice and provision of Substitute Care in NSW, A Discussion Paper, July 2000, p. 29
[45] Big Brother Movement, op. cit., p. 14
[46] ibid., p. 15

as 50% of the total intake. Nearly all came to NSW with a small number (about 160) based in Tasmania from 1950 –1964.

Changes to migration criteria in 1973 reduced eligibility for youths to migrate to Australia under the BBM and numbers fell to approximately 100 per year. Further changes to policy and entry criteria saw the scheme end in 1983.

Single Parent and Two Parent Scheme

In the1950's a number of parents of children involved in child migration schemes were indicating a desire to follow their children at some time in the future.

In late 1957 the Fairbridge Society announced its one parent scheme. This was a plan where it would accept children and also assist the parent to migrate. The child would then remain with the Society until the parent became settled in Australia. The parent would contribute to their child's maintenance once they had been in Australia for 6 months.[47]

By the 1960's the single-parent scheme was supplemented by the two-parent scheme which allowed both parents to migrate. In effect child migration was being replaced by family migration and facilities were being utilised to assist in the settlement of families. Fairbridge Society records indicate that in 1960-61, 212 children migrated to Australia under these schemes. However, by the mid-1960's even these schemes were failing. The reason for this appears to be that the rural setting of the farms was not attractive to migrants more keen to become established in the cities.[48]

Recent migrant children arrivals and the IGOC Act

In addition to children brought out to Australia under the various child migrant schemes described above, other recent migrant child arrivals who have arrived as part of the humanitarian program or who are inter-country adoptees also come under the legislative umbrella of the IGOC Act.

Humanitarian Minors

The IGOC Act applies to children who are under 18 years of age, enter Australia as a "non-citizen" and intend to become a permanent resident of Australia. Children who have a parent or a relative over the age of 21 years living in Australia are excluded from the IGOC Act. Under section 11 of the IGOC Act the Minister for Immigration is able to

[47] Sherington & Jeffery, op. cit., p. 242
[48] ibid., p. 242

exclude an individual child or a class of children from the Act by an order in writing.

Whilst the Minister for Immigration remains legal guardian of "non-citizen children", under the delegations and the IGOC Regulations State welfare authorities are responsible for the welfare and care of these children. This would include organising appropriate forms of care, and intervening in cases where negligence or mistreatment is suspected.

The Commonwealth contributes to the costs incurred by State welfare authorities for the care of unaccompanied humanitarian minors who are wards of the Minister (as well as other groups of humanitarian minors not covered by the IGOC Act) through a series of cost sharing agreements with NSW, VIC, SA and WA, and a Memorandum of Understanding with QLD. Under these agreements the Commonwealth assists with the costs of employing caseworkers who are responsible for the supervision and counselling of unaccompanied humanitarian minors.

These agreements require States to report on the frequency of contact with minors and the extent to which the objectives of the program have been met. DIMA also pays a maintenance allowance to eligible minors who are wards of the Minister.

In 1999-2000, 170 unaccompanied humanitarian minors were assisted under the Commonwealth / State cost sharing arrangements.

A joint Commonwealth / State working party has been convened to examine the current agreements and to ensure that the needs of unaccompanied humanitarian minors are adequately met. DIMA is also reviewing the current operation of the IGOC Act to ensure appropriate coverage is provided.

Inter-country Adoptions

The IGOC Act also applies to children adopted overseas or allocated for adoption in Australia who enter Australia as the holder of an Adoption visa in any case where the adoption has not been completed or the overseas adoption order is not recognised in Australia. Because the parent-child relationship is not recognised in Australia these children fall within the definition of "non-citizen child" under Section 4AAA, in that they are entering Australia permanently but are not in the care of a parent or adult relative.

The majority of children entering Australia on adoption visas fall within the guardianship provisions of the IGOC Act. Only overseas adoptions which have been completed under the provisions of the *Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoptions* or under a specific bilateral adoption agreement as prescribed for the purposes of the *Family Law Act 1975*

(Cth) are automatically recognised in Australia. Currently only the Australia-China Agreement is prescribed under the Family Law Act for this purpose. Other overseas adoptions by Australian citizens and residents, whether facilitated by State and Territory welfare authorities or privately arranged by the adoptive parents, are not automatically recognised in Australia.

Under the provisions of the IGOC Act the Minister for Immigration and Multicultural Affairs becomes the guardian of these children on entry to Australia. The Minister delegates his guardianship responsibilities to the child welfare authority in the State or Territory of intended residence of the child in Australia.

The IGOC Act applies until:

- the state welfare authority makes an order to cease the guardianship after adoption or recognition processes have been completed - usually after a period of 12 months; or

- the child acquires or is granted Australian citizenship. Provided one parent is an Australian citizen:
  - if an adoption order is made in Australia the child becomes a citizen automatically;
  - when recognition of the foreign adoption order is completed under state/territory law the child may apply for citizenship;
  - children adopted privately overseas while their parents were genuinely living overseas for 12 months will usually be able to apply for citizenship immediately; or

- the child turns 18 years old; or

- the child departs Australia permanently.

In 1993 the IGOC Act was amended to provide for children entering Australia for purposes of adoption to be excluded from the provisions of the Act, and to come directly under the guardianship of state and territory welfare authorities where that state had been declared under section 4AAB of the Act. All states and territories had agreed to amend their legislation to provide for equivalent guardianship of these children. However, to date only one state has made the necessary amendments and no state has been declared. To ensure adequate guardianship of all children, it was agreed that declarations would not occur until all states and territories had legislative provisions in place.

2. Responses To The Legacy Of Child Migration Schemes

Measures undertaken during the operation of the schemes and since to assist former child migrants reunite with their families and obtain independent advice and counselling services – addresses Terms of Reference (b) and (c).

The Australian Government Response to the British Government Response to the Recommendations of British House of Commons Health Committee's Report of its Inquiry into the Welfare of Former British Child Migrants[49] constitutes the most comprehensive overview of the measures that have been taken to assist former child migrants. The evolution of these measures and how they sit with measures undertaken in relation to other children exiting institutional care in Australia over the last half of the century are discussed below.

Idea of Family Reunion during the 1940s and 1950s

At the time the child migrant schemes were at their peak in the late 1940s and 1950s, it seems unlikely that measures were taken to assist the children to locate or reunite with their families. The intention of the schemes as indicated in , was for the children to have a 'fresh start'. Many of the child migrants were illegitimate and, as previously indicated, some were apparently told they were orphans to protect both the child and the mother from the stigma of illegitimacy.

Children in institutions in Australia at that time generally were given scant information about their parents or siblings and contact was not encouraged. The Forde Inquiry noted that the *Queensland State Children Act 1911*(repealed in 1965) imposed severe restrictions on a parent attempting to gain access to a child committed to the care of the Department:[50]

> *"Children were not kept informed of their family circumstances; some believed for years, wrongly, that their parents were dead,*

[49] *Australian Government Response to the British Government Response to the Recommendations of British House of Commons Health Committee's Inquiry into the Welfare of Former British Child Migrants*. (Tabled in Parliament 27 January 2000).
[50] Forde, op. cit., p. 35

> *that they had no siblings, or that their parents did not want them."*[51]

Many former residents of the homes who gave evidence to the Inquiry greatly resented the fact that they had not been allowed to maintain their relationships with siblings:

> *"we weren't allowed to mix with each other or see each other… I can't swear I didn't glance at them or see them accidentally some time or other. I can't recollect, but I probably could have seen them, I don't know. I had no physical contact with them at all while I was at the orphanage – that wasn't permitted, no. I should imagine we'd be punished because that was forbidden that there was any contact with any brothers or sisters at the orphanage."*[52]

The importance of maintaining contact with family outside the institution was poorly recognised. Under the *Queensland State Children Act 1911* visits from family to children in institutions were permitted upon presentation of an Order from the Director or a district officer of the Department.[53]

However, visits were not permitted to be longer than an hour in duration, nor were they to occur more than once every 4 weeks.

This approach of restricted access was consistent with the approach taken with adoptees and children in foster care. It has only been in the past decade or so that Australian State and Territory legislation has allowed adoptees and foster children to access their birth certificates and therefore be able to trace birth parents and siblings.

Previously, adoption was viewed as a complete severing of ties with the adopted child being cut off permanently from their natural parents. It was considered that this provided a new beginning for the child, the natural parents and the adopting parents.

However, adoption came to be recognised as a lifelong process that created ongoing needs. Adult adoptees and birth parents, supported by professional adoption workers lobbied for years to have changes made to the legislation so that records could be accessed and family members traced. In NSW this led to the Adoption Information Act 1990.[54]

For several years there have been a number of associations and services that have provided assistance and support to adoptees who seek to reunite with birth parents, however it has only been very

[51] ibid., p. 101
[52] ibid., p. 78
[53] It is noted that in some jurisdictions there are now statutory requirements to visit children who are wards and to inspect premises.
[54] Benevolent Society website, www.bensoc.asn.au/parc/history.html

recently that measures to assist children who were in institutions have begun to be formally considered.

Counselling and Aftercare

Counselling and advisory services were not a feature of the Australian institutional environment until long after the child migration schemes ceased to operate. As Coldrey notes:

> *"In the traditional orphanage, with chronically overworked staff and basic resources, systematic aftercare was rarely if ever a reality – throughout the system. Once a child left the orphanage he was largely on his own. In the more affluent 1960s and 70s the child in care was to be helped to re-integrate into his family environment."*[55]

The period 1965 to 1990 saw significant changes in community attitudes to extra-nuptial birth, the roles of men and women in society and other aspects of family life. The *Family Law Act 1975* for example, represented a landmark change in the legislation governing marriages. The idea of providing family and children's counselling services was beginning to emerge, but there was little specialist support available to children who had been in institutions.

It is only in recent times that these needs have been recognised. As the *Inquiry into the Practice and Provision of Substitute Care in NSW* reported in November 2000:

"*The concepts of preparation for leaving care and after care are relatively new in the child welfare sector. This is evidenced by the fact that prior to 1987, NSW had no legislated responsibilities for young people who had left the state's care. The 1990s witnessed heightened awareness of the need to address issues around after care."*[56]

As recently as October 2000, the inaugural meeting of Australia's first support group for children who had been in institutions – 'home children', CLAN (Care Leavers of Australia Network) was held in Sydney. As a recent article in the *Good Weekend* reports:

> *"There was never any official acknowledgment that home children – who had never seen their parents write a cheque, pay a bill or shop for food, - might be ill equipped to join society, and no formal measures were ever put in place to help them."* [57]

[55] Barry Coldrey, *The Scheme: The Christian Brothers and Childcare in Western Australia*, Argyle-Pacific, WA, 1993, p. 203
[56] Community Services Commission, Final Inquiry Report, Inquiry into the practice and provision of Substitute Care in NSW, November 2000, p. 43
[57] Nikki Barrowclough, *Orphans of the Living*, Good Weekend, 11 October 2000, p. 22

Measures taken to assist former child migrants

Since the mid 1980s, as child migration schemes and the impact these schemes had on a number of children have become better understood, the Commonwealth has been involved in various measures to assist former child migrants.

The Department of Immigration and Multicultural Affairs and successive Ministers of Immigration, as well as other members of parliament both at Federal and State level have maintained a close interest in child migrant issues. Over the past decade there has been regular correspondence from former child migrants many of whom have recounted their individual stories or sought assistance with issues such as locating records.

Since 1985 the Catholic Migrant Centre (CMC) in Perth has provided assistance to former child migrants. The operations of the Centre have been part funded through the Department's Community Grants Program since CMC's establishment in 1985.[58] The CMC, as well as keeping files on child migrants settled by the Catholic Archdiocese of Perth, has also been assisting former child migrants reunite with their natural relatives. In its submission to the 1998 British House of Commons Inquiry into the welfare of former child migrants, the CMC noted that as early as 1985 it had been assisting some former child migrants locate family and relatives.

In the early 1990s departmental staff also worked with the members of the Child Migrant Friendship Society in Western Australia, assisting the Society in applying for funding, and in formulating a submission requesting waiving of fees for Evidence of Return Status Certificates.

In February 1990, the Minister announced that the Australian Government would give financial assistance to the Child Migrants Trust (the Trust) to establish an office in Melbourne, to service child migrants in Australia.

Since that time the Department, through its Community Grants Program has provided more than $750,000 in funding to the Trust.

In response to the high number of former child migrants in Western Australia, many of whom were seeking the assistance of the Trust in the United Kingdom, the Trust applied for funding to open an office in Perth. An additional grant was awarded to the Trust in August 1994 to fund a worker in Western Australia.

The Trust has received funding from the British and Australian governments to provide a professional social work, counselling, family research and advisory service for those persons identified as former child migrants and their families. The purpose of these services is to

[58] Catholic Migrant Centre, Memorandum to the House of Commons Health Committee Inquiry into the Welfare of Former British Child Migrants, CM 284

preserve and protect mental health and to relieve the psychological, psychiatric and emotional distress arising from the Child Migrant Schemes and the separation of former child migrants from their families and countries of origin. In appropriate cases assistance is also provided in facilitating, with professional counselling assistance, the reunion of former child migrants with members of their families. Recent Commonwealth funding is provided with the objective of facilitating client access to appropriate mainstream services.

In its submission to the 1997/98 British House of Commons Health Committee's Inquiry into the Welfare of Former Child Migrants the Trust related its service base in Australia in the context of its British operations. It noted that:

> *"The Trust needed to develop its services in a balanced, synchronised way and would require more resources in Britain before it could service further offices abroad."*[59]

In recent times State governments have also begun to provide assistance for children who were institutionalised, including former child migrants, as evidenced by the recent Forde Inquiry, the NSW Inquiry into Substitute Care and recent measures taken by the Western Australian Government.

Recommendation 40 of the Forde Inquiry[60] suggested a range of services be provided through a 'one stop shop' funded by the Queensland Government and responsible religious authorities including providing assistance to former child migrants for reunification with their families.

In 1999 the Western Australian Government announced that it would be providing $128,000 over two years to support the work of the Trust in Perth.

Assistance in accessing records

A significant issue for former child migrants is access to documents which provide their identity and enable them to trace family members.

The Australian Government has, for many years, assisted former child migrants to access their records through the National Archives and all State Government welfare departments assist child migrants to access information where possible. Former child migrants are not charged by National Archives for consulting material held in the Archives in order to clarify their identity and their origins.

The National Archives has also provided the Child Migrants Trust with access to all nominal roles for ships or flights which carried child

[59] Child Migrants Trust, submission to the House of Commons Health Committee Inquiry into The Welfare of Former British Child Migrants, 1998, p. 13
[60] Forde, op. cit., p. xix

migrants and to the lists of all organisations that looked after child migrants during this period.

To assist former child migrants and those agencies assisting child migrants access relevant records, the National Archives published in 1999 a research guide – *Good British Stock: Child and Youth Migration to Australia*. The guide provides an overview of child migration, outlines sources of genealogical information in the National Archives and alerts readers to the records available in Australian State archives and the organisations sponsoring child migration.

The National Archives is also cooperating with the Christian Brothers in the Brothers' endeavour to create a database which includes information about British child migrants who were placed in Catholic institutions in Western Australia.

Health and Counselling Services

As indicated in the Australian Government Response to the British Government Response to the Recommendations of British House of Commons Health Committee's Report of its Inquiry into the Welfare of Former British Child Migrants,[61] health and welfare services in Australia are provided by State and Territory governments who fund hospital and community based services, including counselling and mental health services. Such services are available to the general population, including former child migrants. As such, all State and Territory Governments in Australia already provide, or have available, counselling and therapy services for former child migrants, provided by both government and non-government counselling organisations.

In order to better service the needs of former child migrants, each State and Territory Government has designated an official within their relevant departments to deal with inquiries from former child migrants.

More recent developments include funding by the Commonwealth for family relationship counselling services through 41 non-government organisations that come under the umbrella of Relationships Australia, Centacare and Family Services Australia. These organisations assist families to deal with relationship issues during the periods of pre-marriage, marriage, separation, divorce and re-partnering. Such services are available to the general population, including former child migrants.

Acquiring a Sense of Identity

As child migrants arrived in Australia as youngsters, many assumed they were Australian citizens and it has only been at critical points of their lives that they discovered that they were not Australian Citizens

[61] *Australian Government Response to the British Government Response to the Recommendations of British House of Commons Health Committee's Inquiry into the Welfare of Former British Child Migrants*. (Tabled in Parliament 27 January 2000).

and could only become citizens by submitting an application for citizenship.

The acquisition of citizenship is often equated with a sense of identity and those child migrants who have sought Australian citizenship have received the full support of the Australian Government. The Government provides information on citizenship and permanent resident issues specifically for former child migrants. From November 1995, there has been provision for the waiving of fees for the grant of citizenship for former British child migrants. The fee for proof of residency in Australia is also waived. To assist former child migrants apply for Australian citizenship an information leaflet was produced in consultation with the Child Migrants Trust. A copy of the information leaflet is at Attachment C.

Child migrants also benefit from portability arrangements for Australian pensions which guarantee that they continue to receive their pensions while overseas so long as they remain qualified.

3. Formal Acknowledgment And Apology

Addresses Term of Reference (d).

As detailed elsewhere in this submission, there have been many organised child migration schemes to Australia over an extended period, starting from the late nineteenth century, and continuing until the mid twentieth century. Such organised schemes must be viewed within the historical context of their time. An investigation of that context in the post war period indicates that there was never any intention to expose the children to physical or psychological suffering or hardship. Rather the schemes were partly inspired by humanitarian concerns, and were in accord with then prevailing social attitudes and values.

Views about the appropriateness of child migration schemes have changed significantly over the past decades. As indicated in the *Australian Government Response to the British Government Response to the Recommendations of British House of Commons Health Committee's Report of its Inquiry into the Welfare of Former British Child Migrants*,[62] the Australian Government regrets the suffering that some child migrants have experienced as a result of past practices. However, while such suffering may have been an unforeseen and regrettable consequence of the migration schemes in some instances, there is also no reason to believe that the experience was universally negative. It would be impossible to generalise about the cause of any harmful effects, even more difficult to assume that the migrant children would have been "better off" had they not migrated.

It would therefore be inappropriate for the Commonwealth Government to make a formal apology for well-intentioned past schemes which may have had unforeseen and unintended consequences in some cases, particularly when those schemes were arranged and administered in conjunction with a whole range of other government and private agencies. The Australian Government's position on this issue as indicated in the Australian Government Response, agrees with that of the British Government, which, while offering sincere regrets to those who see themselves as scarred by the experience of child migration,

[62] *Australian Government Response to the British Government Response to the Recommendations of British House of Commons Health Committee's Inquiry into the Welfare of Former British Child Migrants*. (Tabled in Parliament 27 January 2000).

agreed that the prevailing mood is to move forward positively and concentrate on improving support and assistance for those former child migrants who may need or want such services. [63]

[63] Department of Health. *The Welfare of Former British Child Migrants*. Government Response to the Third Report from the Health Committee Session 1997-98. p. 2-3.

4. Measures of Reparation Including, But Not Limited To, Compensation And Rehabilitation

Addresses Term of Reference (e).

As indicated in the Australian Government Response, the Australian Government agrees with the British House of Commons Health Committee, and the British Government itself, that matters of support and practical help with tracing family members are of greater significance to former child migrants than compensation.[64] An overview of the services and measures undertaken by the Commonwealth to assist former child migrants has been given in the response to terms of reference (b) and (c) above. The government's general approach is that this type of response, offering support services to those who need them, is the most appropriate "measure of reparation".

The Commonwealth government's general policy on compensation is that it makes payments only where it has a legal obligation to do so, or in limited, exceptional circumstances, which it is considered do not apply here. This has been a longstanding position of successive governments.

The Government does not believe that blanket compensation is either appropriate or even possible, given that the circumstances of each case vary. Where consideration is given to issues of compensation, relevant past standards and practices would also need to be acknowledged in that consideration.

If any claims are lodged against the Commonwealth they would be considered in accordance with the Legal Services Directions. However, the Government believes that on the material presently available to the Commonwealth allegations of harm and claims for reparation or compensation would need to be tested by a court. If, following an examination of the circumstances of an individual case,

[64] Australian Government Response. op.cit. p.6

legal liability for harm done to that individual as a result of, or related to, the experience of child migration can be proven, a court would decide upon the question of the party or parties responsible for the harm, and any punishment, rehabilitation or compensation which may be appropriate.

5. Statutory and Administrative Limitations

Addresses Term of reference (f).

In relation to claims for common law damages for personal injury, State and Territory limitation legislation provides for a limitation period of between three and six years within which time the action must be commenced. Under limitation legislation this period does not run whilst a potential plaintiff is a minor, though there are maximum time limits of 30 years in some legislation. Also, in most States and Territories the limitation legislation allows the court a discretion to extend the limitation period.

There are general time limits in each State and Territory on the laying of an information or complaint in respect of minor criminal offences. The general time limit varies between six and twelve months.

Also, there may be time limits in respect of the prosecution for certain offences (including indictable offences) specified in the legislation creating those crimes. However, generally, a time limit would not apply in the prosecution of indictable sexual offences.

Part 3

Attachments

Attachment A
Child/Youth migration statistics 1947-June 1961[65]

Age on Arrival	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	Total
2	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1
3	0	0	3	3	0	2	2	0	0	1	0	1	1	2	0	15
4	2	0	5	3	1	4	5	4	5	2	3	3	1	4	2	44
5	18	2	12	15	12	11	17	15	13	6	1	5	4	4	1	136
6	34	13	17	24	12	17	25	20	12	4	7	6	3	2	2	198
7	36	10	22	23	20	32	22	22	15	5	5	6	3	6	3	230
8	49	13	21	29	19	31	36	30	17	7	3	7	7	6	3	278
9	43	14	23	33	16	41	46	31	23	15	11	12	4	4	0	316
10	48	9	20	45	19	38	59	39	28	13	8	8	13	10	3	360
11	60	5	21	39	21	21	39	23	27	13	8	9	9	6	2	303
12	51	14	14	41	25	19	50	20	22	7	5	15	13	11	1	308
13	42	7	18	46	19	8	35	21	20	16	7	6	16	6	2	269
14	24	2	13	34	8	7	15	10	20	15	1	13	17	4	4	187
15	4	4	14	32	27	25	9	19	13	16	13	5	22	20	10	233
Sub-Total	**411**	**93**	**203**	**367**	**199**	**256**	**360**	**254**	**215**	**120**	**72**	**97**	**113**	**85**	**33**	**2878**
16	29	42	65	86	93	87	49	55	70	49	77	50	56	51	34	893
17	14	65	46	144	235	178	120	98	110	105	123	80	131	109	54	1612
18	0	0	1	6	10	38	43	20	46	31	43	49	103	130	61	581
19	0	0	0	6	10	12	2	1	0	0	2	4	43	32	11	123
20	0	0	0	0	0	0	0	0	0	0	0	1	0	0	2	3
Sub-Total	**43**	**107**	**112**	**242**	**348**	**315**	**214**	**174**	**226**	**185**	**245**	**184**	**333**	**322**	**162**	**3212**
Total	**444**	**200**	**315**	**609**	**547**	**571**	**574**	**428**	**441**	**305**	**317**	**281**	**446**	**407**	**195**	**6090**

[65] Department of Immigration, *Australian Immigration, Quarterly Statistical Bulletin, No 39, July 1961, p. 11*

Attachment B
Approval of institutions to receive child or youth migrants[66]

CHILDREN'S HOMES

Premises

1. Detailed information on accommodation (including outside playing space) specifying dining room, dormitory, recreation, classroom, ablutionary and sanitary accommodation separately.

Children

2. The number, sex and age range of the children accommodated, or intended to be accommodated; whether the home accommodates also any children who are educationally sub-normal or physically handicapped or delinquent, or any persons above the age of 18 (other than staff).

3. Staff

i. Number of staff (including teaching staff, if any) engaged in the direct care of the children;

ii. Number who have received training in child care;

iii. If children are educated in the Home, number of teachers and whether any, and if so how many, are qualified according to standards recognised by the Australian education authority; whether teaching staff are also engaged in the care of children outside school hours, and if so, to what degree.

Number of domestic staff.

Medical

4. Arrangements for the medical and dental care of the children and whether the children will undergo routine medical and dental examinations, and, if they do, at what intervals.

Education

5. Facilities for the children's education (including higher education) and whether the children are to go to school inside the Home or to local schools outside.

[66] From Briefing Papers for Overseas Tour of the [Department of Immigration] Secretary 1952, described as a "draft guide to be used when a report by State and Commonwealth Officers is being sent to the UK authorities relative to the recognition of an institution".

Outside contacts

6. Opportunities for the children living in a Home to meet and mix informally with children living with their parents, and whether they are able to gain experience of normal family life by, for example, spending holidays in Australian homes.

Home environment

7. Information should be given as to the general regime of the Home, the attitude of the staff towards the children in the Home, and the non-material factors on which the happiness and well-being of the children largely depend. Where the proposals relate to a Home which is already in existence, reports would be welcomed on the appearance of the children already there, their clothing (whether uniform or otherwise), their demeanour and bearing, and their attitude towards the staff and towards strangers; any information would be welcomed which would give an indication of the character of the Home, and evidence whether the children were allowed opportunity for the development of individual character and ability, and of facilities for the encouragement of hobbies and individual interests.

8. Facilities given for the children to receive a religious up-bringing appropriate to the religious denomination to which they belong.

ORGANISATION AND AFTER-CARE

9. The general reputation and standard of the organisation, the range and standard of its work, and the number and quality of its staff (trained and untrained) and/or voluntary workers engaged in it.

10. The safeguards applied in the selection of employers and foster parents.

11. The machinery, in operation or proposed, for providing after-care services to children boarded out or placed in employment, the number and quality of staff or voluntary workers engaged in the work, and the frequency of visits.

12. The range of employment found, or proposed to be found, for the children. Whether assistance is given, to enable children to develop any special aptitude or ability they may possess.

13. Arrangements for financial assistance to children until they are able to maintain themselves.

14. Any special points arising out of the circumstances of a particular scheme.

Attachment C
Text of Department of Immigration and Multicultural Affairs Form Australian Citizenship, No. 8 – former British child migrants 1014I

IF YOU CAME TO Australia under the British Child Migration Scheme (BCMS), you may think that you are an Australian citizen but this may not be the case.

This information form answers the most common questions former British child migrants have about their citizenship.

Am I an Australian citizen?

Australian citizenship was created by the *Australian Citizenship Act* on 26 January 1949. Before then, people living in Australia were either British subjects or aliens. Former British child migrants whose home was Australia for the five years to 25 January 1949, automatically became Australian citizens on 26 January 1949.

If you came to Australia after 26 January 1944, you are probably not an Australian citizen unless at least one of your natural parents was an Australian citizen and/or you formally acquired citizenship.

If not, why not?

British subjects who arrived in Australia after 26 January 1944 did not gain automatic Australian citizenship just by living in Australia - they had to formally apply.

For many years it was easier for migrants from the UK to become Australian citizens than migrants of other nationalities. Until 1973, people born in the UK or Ireland could **register** for citizenship after one year in Australia and did not have to attend citizenship ceremonies. On 1 December 1973 the Australian government introduced new rules which treated all applicants for citizenship the same. From then, British applicants were required to attend citizenship ceremonies like other migrants.

Only a small number of post-war British migrants applied to become Australian citizens. Many wrongly believed they already were Australian citizens. Others did not see the need, as for many years they were entitled to all the privileges of citizenship. For example, until 25 January 1984 those born in the UK or Ireland could enrol and vote without becoming Australian citizens.

British migrants were eligible to serve in Australia's armed services without being Australian citizens.

Are my children Australian citizens?

If they were born in Australia before 20 August 1986 they are Australian citizens.

Children born in Australia since then are Australian by birth if, at the time of birth, at least one of their parents is an Australian citizen or permanent resident.

Benefits of Australian citizenship

You will have the civil, social and political rights of Australian citizens. For example you are eligible to:

- apply for appointment to any public office or position in the Australian Public Service;
- nominate to stand for election to Parliament;
- vote in Australian elections;
- apply for an Australian passport;
- claim protection from an Australian diplomatic representative overseas;
- apply to enlist in the Australian defence forces; and
- register a child under 18 born to you overseas as an Australian by descent.

What are the disadvantages of not becoming an Australian citizen?

If you are a permanent resident of Australia but not a citizen and travel outside Australia, you will need a visa to return as a permanent resident. If you remain outside Australia and your visa expires, you may lose permanent residence and the right to return as a resident.

If you commit certain serious offences you may be deported.

Will I lose my British citizenship?

No. If you become an Australian citizen you will not automatically lose your British citizenship. You should get an Australian passport to re-enter Australia but can continue to use your British passport to travel overseas.

What do I have to do to become an Australian citizen?

You should contact an office of the Department of Immigration and Multicultural Affairs in Australia or any Australian mission if you are living overseas, to have your eligibility assessed.

How much will it cost?

There is no fee for former British child migrants who came to Australia between 22 September 1947 and 31 December 1967 under the BCMS.

If you are an Australian citizen but do not have a certificate to prove it (for example, they were not normally issued to children under the age of 16), you can apply for a declaratory certificate of Australian citizenship. See information form 990i - *Charges* for current charges.

Evidence of residence

If you do not have a passport or other official documents to prove you are or have been living permanently in Australia, and need such evidence, for example to demonstrate eligibility for government benefits, you can get a certificate of evidence of residence status. While there is normally a fee for this, it has been waived for former British child migrants on production of evidence that they came to Australia under the BCMS.

Evidence of child migrant status

Former British child migrants need to produce evidence of their sponsorship under the BCMS with their application for grant of Australian citizenship. You can get this through the Child Migrants Trust which has offices in Melbourne and Perth. The Perth office handles enquiries from Western Australia and the Melbourne office handles enquiries from elsewhere in Australia. This service is free.

The Child Migrants Trust

The Child Migrants Trust was founded in 1987 as an independent, specialised, comprehensive, professional service for former child migrants, their parents and relatives. The Trust works on behalf of former child migrants who seek information about their family, childhood and migration history or who want to be reunited with their mothers, fathers, brothers or sisters. A brochure is available on request from:

The Child Migrants Trust
228 Canning Street
North Carlton Victoria 3054
Phone 03 9347 7403
Fax 03 9347 1791.

Annexure A
Instruments of Delegation

Attached in hard copy only, this attachment contains copies of the first *Immigration (Guardianship of Children Act) 1946, Instrument of Delegation* signed by the Minister for Immigration, the Hon Arthur A. Calwell on 19 December 1946 for each Australian State and Territory.

The Instrument was for the purpose of delegating powers under the Act to persons occupying an office or performing duties in that State/Territory's Child Welfare department or equivalent.

Annexure B
Indenture between Western Australia Child Welfare Department and the Catholic Episcopal Migration and Welfare Association

In hard copy only, this is an example of the agreement between State child welfare authorities and the sponsoring child migrant organisations stating the conditions to be followed by the sponsoring organisation for that daily care and welfare of children.

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