

The Senate

Community Affairs
References Committee

Forgotten Australians

A report on Australians who
experienced institutional or
out-of-home care as children

August 2004

RECOMMENDATIONS

Chapter 7

Statements of a acknowledgment and apology

Recommendation 1

7.110 That the Commonwealth Government issue a formal statement acknowledging, on behalf of the nation, the hurt and distress suffered by many children in institutional care, particularly the children who were victims of abuse and assault; and apologising for the harm caused to these children.

Recommendation 2

7.111 That all State Governments and Churches and agencies, that have not already done so, issue formal statements acknowledging their role in the administration of institutional care arrangements; and apologising for the physical, psychological and social harm caused to the children, and the hurt and distress suffered by the children at the hands of those who were in charge of them, particularly the children who were victims of abuse and assault.

Chapter 8

Addressing legal barriers

Recommendation 3

8.67 That State Governments review the effectiveness of the South Australian law and consider amending their own statutes of limitation legislation to achieve the positive outcomes for conducting legal proceedings that have resulted from the amendments in the South Australian jurisdiction.

Recommendation 4

8.68 That in recognising the difficulty that applicants have in taking civil action against unincorporated religious or charitable organisations, the Government examine whether it would be either an appropriate or a feasible incentive to incorporation, to make the availability of federal tax concessions to charitable, religious and not-for-profit organisations dependent on, or alternatively linked to, them being incorporated under the corporations act or under state incorporated associations statutes.

Recommendation 5

8.69 That the Commonwealth Government examine the desirability and feasibility of introducing whistleblower legislation for the not-for-profit religious and charitable sectors.

National reparation fund

Recommendation 6

8.125 That the Commonwealth Government establish and manage a national reparations fund for victims of institutional abuse in institutions and out-of-home care settings and that:

- the scheme be funded by contributions from the Commonwealth and State Governments and the Churches and agencies proportionately;
- the Commonwealth have regard to the schemes already in operation in Canada, Ireland and Tasmania in the design and implementation of the above scheme;
- a board be established to administer the scheme, consider claims and award monetary compensation;
- the board, in determining claims, be satisfied that there was a 'reasonable likelihood' that the abuse occurred;
- the board should have regard to whether legal redress has been pursued;
- the processes established in assessing claims be non-adversarial and informal; and
- compensation be provided for individuals who have suffered physical, sexual or emotional abuse while residing in these institutions or out-of-home care settings.

Internal Church redress processes

Recommendation 7

8.170 That all internal Church and agency-related processes for handling abuse allegations ensure that:

- informal, reconciliation-type processes be available whereby complainants can meet with Church officials to discuss complaints and resolve grievances without recourse to more formal processes, the aim being to promote reconciliation and healing;
- where possible, there be independent input into the appointment of key personnel operating the schemes;
- a full range of support and other services be offered as part of compensation/reparation packages, including monetary compensation;
- terms of settlement do not impose confidentiality clauses on complainants;

- internal review procedures be improved, including the appointment of external appointees independent of the respective Church or agency to conduct reviews; and
- information on complaints procedures is widely disseminated, including on Churches' websites.

Recommendation 8

8.171 That the Commonwealth establish an external complaints review mechanism, such as a national commissioner for children and young people who would have the power to:

- investigate and mediate complaints received by complainants dissatisfied with Church processes with the relevant Church authority;
- review the operations of Church sponsored complaints mechanisms to enhance transparency and accountability;
- report annually to the Parliament on the operation of the Churches' complaints schemes, including data on the number and nature of complaints; and
- publicise the existence of Church-sponsored complaints mechanisms widely throughout the community.

Recommendation 9

8.172 That the Churches and agencies publish comprehensive data on all abuse complaints received to date, and then subsequently on an annual basis, and that this information include:

- numbers of complainants and type of complaints received;
- numbers of Church/agency personnel involved in complaint allegations; and
- amounts of compensation paid to complainants.

Recommendation 10

8.173 That information on the above matters be provided annually (including any reasons for non-compliance) to the national commissioner for publication in a consolidated form in the commissioner's annual report.

Royal Commission

Recommendation 11

8.223 That the Commonwealth Government seek a means to require all charitable and church-run institutions and out-of-home care facilities to open their files and premises and provide full cooperation to authorities to investigate the nature and extent within these institutions of criminal physical assault,

including assault leading to death, and criminal sexual assault, and to establish and report on concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant authorities, charities and/or Church organisations;

And if the requisite full cooperation is not received, and failing full access and investigation as required above being commenced within six months of this Report's tabling, that the Commonwealth Government then, following consultation with state and territory governments, consider establishing a Royal Commission into State, charitable, and church-run institutions and out-of-home care during the last century, provided that the Royal Commission:

- be of a short duration not exceeding 18 months, and be designed to bring closure to this issue, as far as that is possible; and
- be narrowly conceived so as to focus within these institutions, on
- the nature and extent of criminal physical assault of children and young persons, including assault leading to death;
- criminal sexual assault of children and young persons;
- and any concealment of past criminal practices or of persons known, suspected or alleged to have committed crimes against children in their care, by the relevant State authorities, charities and/or Church organisations.

Chapter 9

Location, preservation, recording and access to records

Recommendation 12

9.113 That government and non-government agencies holding records relating to care leavers, implement and fund, as a matter of priority, programs to find, identify and preserve records including photographs and other memorabilia.

Recommendation 13

9.114 That all government and non-government agencies immediately cease the practice of destroying records relating to those who have been in care.

Recommendation 14

9.115 That all State Governments and non-government agencies, which have not already done so

- provide dedicated services and officers to assist care leavers in locating and accessing records, both government and non-government; and
- compile directories to assist in the locating and accessing of records relating to care leavers and the institutions into which they had been placed.

Recommendation 15

9.116 That a dedicated information and search service be established in each State and Territory to:

- develop a complete register of all records held by government and non-government agencies;
- provide assistance to care leavers to locate and access records;
- provide advocacy and mediation services to care leavers accessing records; and
- ensure that all agencies holding records identify, preserve and make available all surviving records relating to care leavers and the institutions that housed them.

Recommendation 16

9.117 That all government and non-government agencies agree on access guidelines for the records of all care leavers and that the guidelines incorporate the following:

- the right of every care leaver, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same;
- the right of every care leaver to undertake records searches, to be provided with records and the copying of records free of charge;
- the commitment to a maximum time period, agreed by the agencies, for the processing of applications for viewing records; and
- the commitment to the flexible and compassionate interpretation of privacy legislation to allow a care leaver to identify their family and background.

Recommendation 17

9.118 That all agencies, both government and non-government, which provide access to records for care leavers, ensure adequate support and counselling services are provided at the time of viewing records, and if required, subsequent to the viewing of records; and that funding for independent counselling services be provided for those care leavers who do not wish to access services provided by a former care agency.

Recommendation 18

9.119 That the Commonwealth request the Council of Australian Governments to review all Federal and State and Territory Freedom of Information regimes to ensure that they do not hinder access by care leavers to information about their childhoods and families.

Chapter 10

Advocacy and support groups

Recommendation 19

10.58 That the Commonwealth fund a national conference of service providers and advocacy and support groups with the aim being to establish a professional national support and advocacy body for care leavers; and that this body be funded by the Commonwealth and State Governments and the Churches and agencies.

Recommendation 20

10.59 That the Commonwealth and State Governments and Churches and agencies provide on-going funding to CLAN and all advocacy and support groups to enable these groups to maintain and extend their services to victims of institutional abuse, and that the government and non-government sectors widely publicise the availability of services offered by these advocacy and support groups.

Provision of support services

Recommendation 21

10.77 That all State Governments, Churches and agencies provide a comprehensive range of support services and assistance to care leavers and their families.

Recommendation 22

10.78 That all State Government funded services for care leavers be available to all care leavers in the respective State, irrespective of where the care leaver was institutionalised; and that funding provisions for this arrangement be arranged through the Community and Disability Services Ministerial Council.

Counselling services

Recommendation 23

10.106 That all State Governments, Churches and agencies fund counselling services for care leavers and their families, and that those currently providing counselling services maintain and, where possible, expand their services including to regional areas. The counselling services should include:

- the extension of specialist counselling services that address the particular needs of care leavers;
- their provision to clients on a long-term or as required basis; and
- the provision of external counselling as an option.

Recommendation 24

10.107 That specialist higher education courses be available for the training of health professionals in areas related to the particular psychological and psychiatric effects of institutional abuse.

Health care, housing and aged care programs**Recommendation 25**

10.133 That the Commonwealth and State Governments in providing funding for health care and in the development of health prevention programs, especially mental health, depression, suicide prevention and drug and alcohol prevention programs, recognise and cater for the health needs and requirements of care leavers.

Recommendation 26

10.134 That the Department of Health and Ageing fund a pilot program under the Aged Care Innovative Pool to test innovative models of aged care services focussing on the specific needs of care leavers.

Recommendation 27

10.135 That the Home and Community Care program recognise the particular needs of care leavers; and that information about the program be widely disseminated to care leaver support and advocacy groups in all States.

Recommendation 28

10.140 That the Supported Accommodation Assistance Program recognise the particular needs of care leavers; and that:

- data on the usage of the Program by care leavers be collected; and
- information about the Program be widely disseminated to care leaver support and advocacy groups in all States.

Education**Recommendation 29**

10.150 That the Commonwealth and State Governments widely publicise the availability of adult literacy and numeracy services and associated adult education courses to care leavers and care leaver support groups.

Recommendation 30

10.151 That State Governments investigate options for alternative entry pathways to higher education courses for ex-residents of institutions and their children.

Data collection

Recommendation 31

10.159 That the Commonwealth, in conjunction with the States, develop procedures for the collection of data on people who have been in care on forms that are already used to elicit client information such as Medicare and Centrelink forms and admission forms to prisons, mental health care facilities and aged care facilities.

Recommendation 32

10.160 That Commonwealth and State programs across a range of social policy areas, including health and aged care and social welfare services generally, explicitly recognise care leavers as a sub-group with specific requirements in the publications and other material disseminated about programs.

Whole of government approach to program and service delivery

Recommendation 33

10.164 That the Commonwealth and the States commit, through the Council of Australian Governments, to implementing a whole of government approach to the provision of programs and services for care leavers across policy areas such as health, housing and welfare and community services and other relevant policy areas.

Chapter 11

Recognition through memorials and exhibitions

Recommendation 34

11.46 That the Commonwealth and State Governments, in conjunction with the Churches and agencies, provide funding for the erection of suitable memorials commemorating care leavers. Where possible, memorials could take the form of:

- memorial gardens constructed in conjunction with local councils;
- the placement of plaques at the site of former institutions; and/or
- the construction of heritage centres on the site of former institutions.

The Committee further recommends that the appropriate form and location of memorials should be determined after local consultation with care leavers and their support and advocacy groups.

Recommendation 35

11.47 That the National Museum of Australia be urged to consider establishing an exhibition, preferably permanent, related to the history and experiences of children in institutional care, and that such an exhibition have the capacity to tour as a travelling exhibition.

*Oral histories***Recommendation 36**

11.48 That the Commonwealth Government provide funding for the National Library of Australia to undertake an oral history project to collect the life-stories of former residents in institutional and out-of-home care.

*Research***Recommendation 37**

11.49 That the Commonwealth Government fund research either through the Australian Institute of Family Studies or other relevant research body or university into the following areas:

- historical research into institutional care, including the role of institutional care in Australia's social history; the history of institutions and the commissioning of personal histories of former residents;
- the social and economic impact and cost of institutional care; and
- inter-disciplinary research into the relationship between child welfare/child protection and areas such as welfare dependency, social problems such as drug and alcohol abuse and family relationship breakdowns.

Recommendation 38

11.50 That the Australian Institute of Family Studies National Child Protection Clearinghouse be funded by the Commonwealth Government to collect publications related to historical studies of institutional and other forms of out-of-home care and that this information be widely disseminated.

*Tertiary study courses***Recommendation 39**

11.51 That the Commonwealth, in co-operation with State Governments, establish courses of study at selected tertiary institutions that focus on child protection and related issues, especially early childhood and family studies, psychology, conflict management, the impact of institutional care and social policy to address issues in these areas.

