

**SUPPLEMENTARY SUBMISSION
FROM THE ALLIANCE FOR FORGOTTEN AUSTRALIANS
to the Senate Community Affairs References Committee Inquiry into
the Implementation of the Recommendations of the *Lost Innocents* and
*Forgotten Australians Reports***

The Alliance for Forgotten Australians would like to submit this supplementary statement, together with the attached papers, with the agreement of the two Forgotten Australians involved. Emails from them agreeing to the use of their names and cases form part of the attachment.

Legal Barriers

Wilma Robb and Wendy Patton have offered their evidence to support AFA's statement that survivors in NSW are finding it very difficult to take action against the NSW Government. The cases are dragged out for years, incurring substantial nominal costs, and these costs can act as a deterrent in themselves, as occurred with Ms Patton. AFA is informed that two Forgotten Australians have already had to pay substantial court costs when their attempts to bring the NSW Government to account failed.

In Ms Patton's case, the process began in 2004. It was concluded by her in April 2009, when she agreed to withdraw. The reasons for the withdrawal are set out in the documents attached; it is described as an 'offer of compromise'. It appears clear to us that, as she herself says, Ms Patton was deterred from proceeding by the fear of having to pay significant amounts of money. She was not prepared to risk losing the home for which she had worked hard over many years. The statement of potential liability from the solicitors for the Government has had the effect of intimidating her into dropping the claim and allowing the defendant – the Government – to win the case. This has been extremely painful for her and seems to AFA a travesty of justice. Ms Patton has considerable documentary evidence but cannot risk proceeding with the case.

In Ms Robb's case, her solicitors have advised her that they are not prepared to proceed because of the costs they themselves have already incurred and would continue to incur and because their assessment is that a win is unlikely. This case began in 2005 and, despite all Ms Robb's efforts – including obtaining a psychiatric assessment it has gone nowhere. Ms Robb's claim is supported by a great deal of evidence, but the barrier imposed by the limitation period is being successfully exploited by the NSW Government's solicitors. Ms Robb wishes to proceed, despite the financial risk, and she is

now seeking another solicitor willing to take on her case. This has taken an enormous toll on her, physically and emotionally.

We reiterate that children who are abused are not in a position to judge the rightness or wrongness of actions carried out by authority figures who are clearly trusted and supported by society. It can take many, many years for those experiences to crystallise for survivors into awareness and then concrete understanding that what occurred was not their fault, that they are not worthless, and that the perpetrators, and those who supervised the perpetrators, should be held to account. This journey should be supported and applauded, and those responsible should openly acknowledge their faults and their failings. Instead, these survivors' reality is challenged, and Governments and Churches continue to stall and exhaust the energy and funds of the victims.

This must change. The apology by the NSW Government was viewed by survivors as a token gesture, without heart. The behaviour of the Government towards survivors supports that view.

The Irish Report

The recent release of the report from Ireland's Commission to Inquire into Child Abuse has received some publicity. The stories it tells are horrific, but they are not new to Forgotten Australians. The Alliance for Forgotten Australians hopes that the Senate Committee will note the affirmation this report gives to the stories told by survivors here and the comprehensive response already implemented by the Irish Government. This response contrasts with the general lack of support and services available to Forgotten Australians.

Please contact me through the Secretariat if you wish to clarify anything in this submission.



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Chair
Alliance for Forgotten Australians