



Care Leavers Australia Network

SUBMISSION to the Senate Community Affairs Committee

Inquiry into implementation of the recommendations of the *Lost Innocents* and *Forgotten Australian* Reports

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In presenting this submission, we will comment on some recommendations of the *Forgotten Australians* report and focussing on those whose non-implementation we consider most disturbing and/or in greatest need of urgent action.

Firstly, thank you to the Chair and to the Committee for setting up this Review which is a timely initiative.

We would like to state at the outset with regard to the response of the previous federal government, under Prime Minister Howard, that it was inadequate on every level. *Forgotten Australians* presented the then federal government with an opportunity to show leadership, but this opportunity was not embraced. It was a pity that the bipartisan generosity of the committee was not shared by the Prime Minister in making his government's response. The majority of the recommendations of the report were dismissed under the rubric that these were state matters. However the care survivors who were the subject of the *Forgotten Australians* report are no longer children but adults who are middle aged or older, and their needs and entitlements are in many cases applicable to being dealt with under the federal portfolios which cover the areas of Education, Employment, Families, Housing, Community Services, Health (particularly mental health), Veterans Affairs, Ageing, and Human Services. We should remember also that the federal government has a responsibility because Commonwealth child endowment went to the state institutions and to the churches and charities which provided the 'care' of the children who were eligible for it. That the inquiry which resulted in the *Forgotten Australians* report was a Senate inquiry, is already an indication that these are matters of national significance and therefore deserve a national response.

CLAN believes strongly that a national approach to care leaver needs, entitlements and services is essential. We now comment on various recommendations, as follows:

We are still waiting for **Recommendation 1** to be implemented, ie '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.....'. We are hopeful that this will occur in 2009, the UN international year of reconciliation. It is wonderful that this government has shown leadership and apologized to the Stolen Generations, a long overdue acknowledgment. But for true reconciliation to occur, all people separated from their families by government policies need to be acknowledged.

Recommendation 6 states that 'the Commonwealth Government [should] establish and manage a national reparations fund for victims of institutional abuse in institutions and out-of-

home care settings', the scheme to be 'funded by contributions from the Commonwealth and State Governments and the Churches and agencies proportionately'. This has not occurred.

Since 2004, the necessity for a national reparations scheme has become even more pressing because the implementation of redress schemes in some states but not others has established a highly inequitable state of affairs with regard to redress. CLAN receives disappointed and angry calls daily from care leavers in states where redress is available but not to them, because they were in care in another state which does not have a scheme.

The situation currently is as follows:

The **Tasmanian** Government was the first state government to set up a redress scheme for people who experienced abuse while in state care and this scheme remains open indefinitely. It was initially opened in 2003, and closed mid 2005 then re-opened for a brief period in 2008 due to widespread demand, after which the decision was made to keep the scheme open indefinitely for new applicants (ie not for appeal). The Tasmanian scheme is only for those who were in state care, so those care leavers who were 'voluntary' placements are not eligible, even when they were in the same Home as a state ward who has received a redress payment. Maximum individual ex-gratia payments are capped at \$60,000.

Queensland's redress scheme is now closed: from 30 September 2008 no further applications were accepted. The Queensland scheme had two levels of payment, the first level a payment of up to \$7000, and level two an additional payment of up to \$33 000 where more severe abuse or neglect can be established. The government information leaflet about this redress scheme states that second level payments will be finalised 'within the \$100 million allocation for the scheme', ie, presumably the more people apply for it, the smaller the sum available for each individual. There is in any case a ceiling for any applicant of \$40,000 inclusive of both levels of payments. The Queensland scheme is open to all care leavers who were institutionalised, not only state wards but not to people who were in foster care in the same era.

Redress WA was established early this year by the **Western Australian** government, and is open until April 30, 2009. Redress WA is to be commended for advertising the scheme under the banner 'Acknowledging the Past'. It is available to anybody who believes they suffered abuse or neglect while in state care in Western Australia prior to March 1, 2006. Those eligible to apply include child migrants, former wards of the State, including Aboriginal children, and anyone placed in state-approved foster homes and private or religious institutions in WA, including 'voluntary' placements. People who have since moved interstate or overseas are also eligible. The scheme offers an acknowledgment of the abuse or neglect, an apology, and the

opportunity for the applicant to be assisted to write their story so that it can be added to their official record. Eligible applicants receive an *ex-gratia* payment of up to \$10,000 for reasonable likelihood of abuse, or up to \$80,000 with proof of medical or psychological problems stemming from abuse. Applicants with a terminal or life-threatening illness may receive up to \$10,000 as an interim payment. CLAN has an agreement with the WA government to operate as the official agency to help applicants now living outside WA through the application process, and employs a dedicated worker for this purpose.

In **South Australia**, Justice Ted Mullighan, On 1 April 2008, released the report of the Children in State Care Commission of Inquiry which from 2004 had looked into allegations of sexual abuse and death from criminal conduct in relation to state institutional care. Following the inquiry, Premier Mike Rann announced that survivors affected by the events detailed in the Mullighan Report are eligible for immediate compensation through the existing state Victims of Crime scheme. However, in line with one of the recommendations of the Mullighan report, the SA government has also set up a Task Force to consider the establishment of a redress scheme. To date no announcement has been made about this, although the government had said that it would make an announcement before Xmas: CLAN has been informed that there are no plans to make such an announcement within this deadline.

There is no redress scheme in **Victoria**. In response to demands for such a scheme, the Victorian Government has stated that abuse allegations would be considered on a case by case basis, that is, each case would be tested through the court system. In addition victims/survivors would be required by the state's solicitors to provide corroborative information such as the exact date on which abuse occurred, the precise nature of the abuse, details of any complaints they made about the abuse and the precise date on which complainants began to suffer injury, loss and damage. Partly in response to a critical report in the *Age* newspaper on 11 November 2008, the Victorian Government Solicitor's Office has agreed to attempt to fast track settlement of a long list of existing cases by Christmas. To date, however, the Victorian government has refused to set up a redress scheme.

The **New South Wales** government has not given any indication that it will either conduct an inquiry into abuse in care, or set up a redress scheme. This is not an issue that is raised, or discussed, on any level by the NSW government. CLAN has recently met with Minister Linda Burney and received a courteous and interested response which indicated clear understanding, on her part, of the issues involved. However the Minister was unable to give any commitment to a decision about the establishment of a redress scheme or any indication that this matter is on the government agenda. NSW appears to be in a state of denial, operating under the

delusion that there is nothing to be addressed in the history of child welfare in this state, something which hundreds of testimonies from NSW care leavers - including those submitted to the Senate inquiry - indicate is far from the case (see for example submission no. 271).

Recommendations 9 and 10

We note that Recommendations 9 and 10 do not appear to have been implemented, namely

‘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’ (**Rec 9**);

AND

‘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’ (**Rec 10**).

Implementation of these recommendations is linked to implementation of **Recommendation 11**, ie, ‘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 organizations....’

Recommendation 11 urged that ‘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’, then the Commonwealth Government should consider the establishment of a Royal Commission into State, charitable, and church-run institutions and out-of-home care during the last century, (conceived within certain limiting conditions.

None of the above three recommendations has been implemented and CLAN believes that a Royal Commission is essential to fulfil the purpose of such a Commission as named in the Report, namely, ‘to bring closure to this issue, as far as that is possible’. Nothing short of a Royal Commission will demonstrate the willingness of government to acknowledge both the extent and the enormity of these events, and their enduring and traumatic effects on its

survivors. With no state inquiries in either NSW or Victoria, care survivors have no possibility of obtaining acknowledgment, justice and some form of reparation for the harm done to them in the name of care.

As far as CLAN is aware, the only state in Australia which has set up a state database of known perpetrators of abuse in care is **Tasmania**, within their Police Department. They are to be commended for this initiative, which needs to become the norm in every state of Australia.

Recommendations 12-18: Location, preservation, recording and access to records

CLAN has not received any information that would lead us to believe that **Recommendation 12** has been implemented, ie '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'. Nor do we know if **Recommendation 13** has been implemented, ie that all government and non-government agencies immediately cease the practice of destroying records relating to those who have been in care. This presumably is not something which would be publicized, if it were occurring.

Recommendation 14 is '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. There is considerable variation here from state to state. NSW led the way with their 1998 guide, *Connecting Kin*, and other states now also have a guide to records, but others do not.

Tasmania has no guide to records; **Victoria's** guide to records after four years' research is still in draft form with no date named for publication. *Finding Your Own Way*, the **South Australian** guide, is subtitled 'A guide to records of children's homes in South Australia' yet has a picture on the cover of Aboriginal children walking through the desert, and is dedicated to Aboriginal and Torres Strait Islander people who have been removed from family. Whilst acknowledging the reality and tragedy of what happened to Aboriginal children, we would suggest that this is both misleading and divisive if this guide purports to cover all Children's Homes and their inmate records. It also shows a disregard for the sensitivities of non-aboriginal people who as children suffered deeply from separation from family and its inevitable loss of identity, and who can only feel that they are included as an afterthought and that their experiences as children are less significant than those of indigenous children. CLAN has always promoted an inclusive attitude to all of our histories: whether white, indigenous, child migrant - of whatever heritage

and separated from family for whatever reason - the trauma and suffering was equally significant for all of us, and has had similar effects.

Recommendation 15 – that ‘a dedicated information and search service be established in each State and Territory’, charged with several important functions designed to streamline and centralize records - has not occurred and we regard it as an urgent priority.

Recommendation 16 relates to the process of obtaining records, and states vary in this respect. However CLAN knows that records in some cases are still being lost and sometimes are being charged for. For example, NSW DoCS continues to charge care leavers a fee for access to the state ward files of their dead siblings or parent/s. NSW DoCS also take an excessively long time to provide a requested record. As an example, a CLAN member who applied for his files in February this year received them in November (see Harry’s story in CLAN’s December 2008 newsletter, no. 48, attached). To receive the 25 pages of his deceased mother’s ward file, Harry will have to pay \$25. CLAN cannot see the logic, or the justice, in this requirement.

In all states there can be very long waiting periods for clients to receive their state ward records, for example WA Redress applicants have been told they probably will not receive their records until after the closing period for applications to the scheme; the reason given is the large backlog of requests. In Tasmania, applicants to that scheme are told that they cannot have access to their files until after their claim has been processed because the file is needed to assess their claim. In this situation, it would be appropriate in our view for a copy to be made, to accommodate both parties.

Recommendation 17 is ‘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’.

From member information, CLAN’s impression is that this recommendation appears to be honoured generally by the inclusion of a brochure in an individual’s files which informs them of any counselling available (if it is) and/or a recommendation that clients access a psychologist under the recently introduced Medicare amendment which pays for 12 free counseling visits.

Recommendation 18, ‘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’:

CLAN has no information as to federal government action on this matter but our impression is that there has been no change in clients' experiences with FOI regulations. There is currently a review in NSW of the FOI Act, to which CLAN has made a submission, and we are awaiting its determinations.

Recommendations 19 and 20:

Recommendation 19, which reads in part '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' was partly fulfilled by a federal conference in June 2006 although the second part of this statement was not honoured. The aim expressed in Recommendation 19 was for the conference to establish 'a professional national support and advocacy body for care leavers'. The conference aim, instead, was stated as being 'to determine the needs of care leavers', something already determined definitively by the Senate inquiry itself. Although a national advocacy body was set up – the Alliance of Forgotten Australians (AFA) - it should be noted that it was care leavers themselves who established this body, it was not an outcome initiated through the conference proceedings. **We urge that the spirit of Recommendation 19 be carried out.** Establishing AFA as a national advocacy body for care leavers was a good start. AFA however does not do the work of supporting care leavers: this is not its brief, nor does it receive funding to do it. However, support is what CLAN, a national body, does carry out, and has done so since 2000. In line with **Recommendation 20**, we urge that CLAN be federally funded to operate as the national **support** body, as the counterpart to AFA, acting as the national advocacy body.

Recommendation 20 also recommends that CLAN be funded, along with other advocacy and support groups. This is an appropriate point to raise an issue which surfaces occasionally, namely the fact that CLAN charges a fee for membership. Occasionally it is said that if CLAN receives government funding, then we should not charge a fee. That would certainly be true if CLAN were funded on a regular basis like care leaver support agencies in QLD, NSW, VIC and SA: these are government agencies. However CLAN is not a government funded agency as those agencies are. These agencies, as they should, receive their funding every year, to enable them to keep providing their service. CLAN however has to find its own funding each year. **CLAN has no guaranteed ongoing funding, and it never has had.**

CLAN's funding comes from memberships, small annual grants from some of the states, annual donations from a very few past providers, and from occasional donations from individuals. The state government grants are generally between \$10,000 and \$15,000 each; the past provider grants are usually \$5,000 and occasionally \$10,000. Queensland gives CLAN no funding at all

and does not fund the 1800 number. Western Australia funds the service we provide for the WA Redress scheme (on a fee for service basis) but gives us no other funding. Any donations we receive are of course unpredictable and we cannot assume we will receive them, so we cannot factor them into our forward planning. In the same way, we cannot assume each year that the state governments will renew their annual grant. We were fortunate that at the time of the Victorian Apology, in August 2006, the VIC government gave us a large grant (\$85,000) as part of a package for care leaver support which was associated with the Apology. That has kept us going a while but of course is now gone. We have just had to let webmaster go, because we cannot afford to keep him.

The Victorian grant was the last amount of any size that we have had, and it came to us over two years ago. Membership fees make a difference to CLAN because they help to keep our service going, but we look forward to the day when we can drop them, because that would mean we had real, and realistic, funding.

What funding we do have goes to providing a comprehensive service Australia wide. The figures below indicate the volume of calls received by CLAN on a daily basis, showing that whatever state services are available for care leavers, they are demonstrably not adequate to the demand.

In the period 24 November to 23 December 2008, CLAN received 76 calls, of which 71% were from care leavers, the remainder from social welfare agencies, press, government departments etc, seeking information, guidance and advice.

The state of care of care leaver callers was as follows:

NSW	12%
QLD	8%
VIC	29%
TAS	7%
SA	7%
WA	3%
Not specified:	44%

The state where the care leaver caller lives now was as follows:

NSW	18%
QLD	17%
VIC	29%
TAS	3%

SA 5%
WA 3%
NZ 1%
Not specified 24%

Calls lasted between 5 minutes for an information request (eg an address) to one or two hours and very occasionally 3 hours for a support call.

Some of the services which CLAN provides are as follows:

- telephone support and information to individuals and families in all states
- face to face support where clients can visit the CLAN office
- assistance with accessing state ward files and records of residence in an orphanage or Children's Home
- email support and information
- maintenance of a website with information relating to care leaver issues including an expanding gallery of Homes photos
- bi-monthly newsletter with information relating to care leaver issues, which also provides a forum in which care leavers can exchange views and have their personal history published
- a library service for care leavers,
- a research service for academics and students
- a central archive and museum of care leaver history and experience
- support at reunions
- social gatherings in all states
- advocacy on all care leaver issues
- establishment of the National Museum of Orphanage Life, a unique collection of artefacts, photographs and other memorabilia which will be featured early in 2009 on the ABC TV program *Collectors*.

Note that there have been **more than 3 million** visits to the CLAN website this year.

Before we leave **Recommendation 20** we would like to observe that one part of it has apparently not been fulfilled, ie, 'that the government and non-government sectors widely publicise the availability of services offered by these advocacy and support groups'. One example which indicates that this has not occurred comes from a survey conducted by a CLAN student placement, at the end of 2006, of mental health services in the Greater Sydney area. The student reported that:

Only 1 of the 51 facilities who responded had any knowledge of the *Forgotten Australians* report. The sole facility that knew of the Report knew nothing about its contents. The poor knowledge of relevant issues for older care leavers extended past the *Forgotten Australians* Report. Only 3 of the 51 facilities had ever heard the term 'older care leavers' and had a very limited knowledge of what it meant, or who it applied to. Similarly, the same extreme minority of facilities knew anything about the specific needs of older care leavers. This lack of knowledge of older care leavers as a group, of the Senate inquiry, and of the specific needs and problems associated with older care leavers points to a potential inadequacy in those services which can be accessed. (Giles report to CLAN December 2006, unpublished).

Recommendations 21 to 23

These recommendations cover provision of support and counselling services and progress here is not encouraging. **Recommendation 21**, 'That all State Governments, Churches and agencies provide a comprehensive range of support services and assistance to care leavers and their families' has been implemented in a very patchy and inadequate way. With the exception of VANISH in Victoria, services which do exist in fact have not come out of the Senate inquiry, but out of state inquiries - which means that in effect there has been no take-up of this recommendation. There are limited care leaver support and/or counselling services in Victoria, New South Wales, South Australia and Queensland. Western Australia has no dedicated service for care leavers which meets the criteria of these recommendations.

Queensland has services which developed as a response to the 1999 Forde Inquiry and report, but these services are not available to Queenslanders brought up in care in another state, nor does the Queensland government fund CLAN to provide that service. All other states give CLAN a small annual grant ranging from \$3,000 to \$15,000. Queensland is the only state government which has **never** funded CLAN, a position it continues to hold to, despite repeated requests from CLAN that the relevant Queensland Department at least fund the CLAN 1800 number to enable Queenslanders ineligible for services in *their* state to access support from CLAN.

No state has outreach or rural services for care leavers.

CLAN believes that current funding arrangements of past provider agencies should be tied to their acknowledging their past history and its effects on survivors.

Recommendation 22

It is urgent that this recommendation be implemented, ie '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 institutionalized....'.

This is not currently the case. The services available in any state are available only to people who grew up in care in that state. CLAN believes that cross-state services are essential and that talks should be initiated at a federal level (COAG meetings) to ensure that this begins to be discussed with a view to implementation.

With regard to all the recommendations under the heading of 'Health care, housing and aged care programs', Education', 'Data collection' and 'Whole of government approach to program and service delivery', there appears to be little happening, which is extremely discouraging. CLAN believes not only that these recommendations need to be implemented, but that the state's children, now amongst the most disadvantaged of Australia's citizens, are entitled to priority access to all services, for example, through a Gold Card such as is issued to war veterans and their families.

We note that **Recommendation 34**, 'That the Commonwealth and State Governments, in conjunction with the Churches and agencies, provide funding for the erection of suitable memorials commemorating care leavers' is progressing at variable rates in different states, and commend these initiatives, which provide a bright spot in an otherwise fairly bleak landscape with regard to the implementation of most of the recommendations of *Forgotten Australians*.

2009 is the UN International Year of Reconciliation. In a country with a reputation for a 'fair go' and which is concerned about the human rights of people in overseas countries, we hope that the Australian government will take the opportunity in this significant year to effect reconciliation with all the other Australians who have been separated from their families, the Child Migrants and the Forgotten Australians.

We need to become Remembered Australians in our own country.

We thank you for the opportunity to make this submission.

Dr Joanna Penglase for the CLAN committee