



**Australian Government**  
**Department of Immigration and Citizenship**

Mr Elton Humphrey  
Committee Secretary  
Senate Community Affairs Committee  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Mr Humphrey

Thank you for inviting the Department of Immigration and Citizenship to give evidence at the 8 April 2009 hearing of the Senate Community Affairs Committee inquiry into the implementation of the recommendations of the *Lost Innocents* and *Forgotten Australian* reports.

On behalf of the Department, I am pleased to provide the responses to questions taken on notice at the inquiry hearing for consideration by the Committee.

The Committee asked, "...you note in your report that you did offer to undertake special citizenship ceremonies for former child migrants but that none have been requested. Again, would you be confident that you would know about every former child migrant who became a citizen?" (Proof *Hansard* Page CA49-50). My positive response was in regards to whether former child migrants have had the opportunity to have a special citizenship ceremony arranged, rather than whether the department could identify the number of former child migrants who have become Australian citizens. As indicated in the attachment, the Department is unable to accurately identify information on the number of former child migrants becoming Australian citizens.

In relation to recommendations 5 and 12 of the *Lost Innocents* report addressed in the Department's written submission to the Committee on 12 February 2009, I am pleased to inform the Committee of the following updates:

**Recommendation 5**

As a result of the 2009-10 Federal Budget, the Australian Government has committed a further \$600 000 to the Child Migrants Trust Inc. This includes funding of \$150 000 in 2008-09 that was advised to the Committee during the hearing and \$150 000 per annum for the years 2009-10 to 2011-12.

**Recommendation 13**

Following the 2009-10 Federal Budget, the total commitment to the Child Migrants Trust Inc for the period 2002 to 2012 will be \$1 425 000.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Templeton'.

Peter Templeton  
Acting First Assistant Secretary  
Citizenship, Settlement and Multicultural Affairs Division

18 June 2009

people our business

**Senate Community Affairs Committee  
Inquiry into the Implementation of the *Lost Innocents* and  
*Forgotten Australians* Reports**

**QUESTIONS TAKEN ON NOTICE**

Department of Immigration and Citizenship  
Wednesday 8 April 2009

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**Question 1**

***Senator Boyce asked:***

**“There was one query that came up out of the evidence given earlier this morning by the Child Migrants Trust. They brought to our attention the cases of five people who went back to the UK before the inquiry and so missed out on the citizenship requirements that were available then. Are those five cases known to the department? These are people who are seeking to come back to Australia as citizens.”<sup>1</sup>**

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<sup>1</sup> Proof Committee Hansard - Senate Community Affairs References Committee Canberra  
8 April 2009 Page CA 49

## ***Response to Question 1:***

Enquiries have not revealed that the Department of Immigration and Citizenship is aware of the five cases referred to in the question as a related group of cases.

However, the question assumes that these former child migrants are not Australian citizens. The *Australian Citizenship Act 2007* sets out the legal requirements for Australian citizenship.

One of the requirements, for most adults who apply for Australian citizenship by conferral, is that they must satisfy the general eligibility criteria, including the requirement to be a permanent resident of Australia.

People who became permanent residents of Australia prior to 1 July 2007 must, if applying for Australian citizenship prior to 1 July 2010, have resided in Australia as a permanent resident for two in the five years immediately before making an application, including 12 months in the two years prior to making an application.

If making an application on or after 1 July 2010, most adult applicants for conferral of Australian citizenship will need to have been lawfully resident in Australia for four years immediately before making an application, including 12 months as a permanent resident.

Certain former Australian residents who are currently not Australian citizens, and are seeking to return to Australia permanently may be eligible for a Resident Return Visa (RRV). To be eligible for an RRV, applicants must meet one of the following criteria:

- They have spent a total of 2 years out of the last 5 years in Australia as an Australian permanent resident; or
- They have substantial business, cultural, employment or personal ties to Australia which are of benefit to Australia and compelling reason for any absence from Australia of more than 5 years. Applicants applying outside Australia, who last departed Australia on a temporary visa, must have held a permanent visa within the last 10 years. There is no requirement to have been a permanent resident in the last 10 years where the application is lodged in Australia; or
- They are a member of the family unit of a person who holds an RRV or has applied for and is eligible to be granted an RRV.

All applicants for an RRV must be assessed against the prescribed criteria on a case by case basis. While the Department of Immigration and Citizenship is sympathetic to the circumstances of former child migrants, there is no ability to waive the legislative requirements of visa classes.

There is some flexibility in the legislation to grant RRV to a former resident considered to have substantial ties to Australia and compelling reasons for their absence.

## Question 2

***Senator Boyce also asked:***

**“How many former child migrants have become Australian citizens?”<sup>2</sup>**

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<sup>2</sup> Proof Committee Hansard - Senate Community Affairs References Committee Canberra  
8 April 2009 Page CA 50

## ***Response to Question 2:***

The Department of Immigration and Citizenship does not have records which specifically identify former child migrants who have become Australian citizens since their arrival in Australia. Citizenship systems are able to identify certain groups, for example, by nationality. However, due to certain systems limitations it is difficult to identify nil-fee applications and the data for this group is not reliable. In addition, identifying nil-fee applications would not assist in identifying the number of former child migrants who have become Australian citizens since arrival - these applications would include a range of other groups, such as defence force applications, which would far outnumber former child migrants.

Legislation concerning British subjects has changed over time. Those former child migrants who arrived in Australia prior to 26 January 1944 would have automatically become Australian citizens on 26 January 1949 under Australian citizenship transitional arrangements. Others would have become Australian citizens by notification in the period between January 1970 and December 1973. Since 1974 former child migrants have applied for Australian citizenship in the same way as any other permanent resident.

**Question 3:**

**Regarding former child migrants who had travel approved under the Australian Travel Fund but did not use the approved travel before the fund closed,**

***Senator Boyce asked:***

**“Did you think that the other 70 might want to travel at a later time?”<sup>3</sup>**

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<sup>3</sup> Proof Committee Hansard - Senate Community Affairs References Committee Canberra  
8 April 2009 Page CA 51

### ***Response to Question 3:***

The Australian Travel Fund was to cease in 30 June 2005. Due to the age and health of the approved applicants, the travel period was extended to 31 August 2005 to allow approved applicants to travel during the northern summer.

The Australian Government further extended the time period for travel from and return to Australia to 31 May 2006 for approved applicants with health issues or other special circumstances. Of the 77 approved applicants who had yet to travel, only seven completed their journeys during this extended period.

The Department of Immigration and Citizenship has evidence of reasons for not travelling for only 22 individuals who did not use approved travel. The main reason for not travelling was ill health. Other reasons given included fear of travelling following the London bombings, family or work commitments, other emotional reasons and death.

The Department of Immigration and Citizenship does not have information on whether those who did not travel before 31 May 2006 would have wanted to travel at a later date.

Having extended the travel period twice and following the decline in travel during the last extended period, the Australian Travel Fund closed on 31 May 2006.



## Question 4

*Senator Humphries asked:*

**”You respond to recommendation 6 of the Forgotten Australians report which refers to the ‘Commonwealth government establishing and managing a national reparation fund for victims of institutional abuse in institutions and out-of-home care settings’. You then go on in response to that to say that in relation to former child migrants ‘the amount of reparation for former child migrants who were victims of institutional abuse was for the consideration of state and territory governments, religious orders and sending and receiving agencies’. That does not arise out of the Forgotten Australians report. I assume that is a reference to what was in the Lost Innocents report rather than the Forgotten Australians report. Our recommendation was for a national reparations fund established and managed by the Commonwealth. I do not know whether that section was accidentally transposed into this answer or not, but we were obviously looking at having some kind of national oversight of reparations and in the case of up to three states, at this stage, there is no such reparation scheme. Is it possible to get a more direct response to that recommendation?”<sup>4</sup>**

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<sup>4</sup> Proof Committee Hansard - Senate Community Affairs References Committee Canberra  
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#### ***Response to Question 4:***

The Department of Immigration and Citizenship's revised response to Recommendation 6 of the *Forgotten Australians* report is as follows:

The Department of Immigration and Citizenship acknowledges that the *Forgotten Australians* report dealt with the institutional or out-of-home care experiences of children not already documented in the 2001 *Lost Innocents: Righting the record* and the 1997 *Bringing them home* reports. That is, the *Forgotten Australians* report focussed on Australian born, non-Indigenous children in care.

In response to the *Lost Innocents* report, the Australian Government had indicated that the matter of reparation for former child migrants who were victims of institutional abuse in institutions and out-of-home care settings was for the consideration of state and territory governments, religious orders and sending and receiving agencies.

It is noted that the redress schemes established by the state governments of Queensland, Tasmania and Western Australia for care leavers who suffered abuse as children also extend to eligible British and Maltese former child migrants.

## Question 5

***Senator Moore asked:***

**“What was the rationale behind the government’s response for not providing automatic citizenship to anyone who had been a child migrant? I am still struggling with that. I would like the formal government reason as to why that was not applicable.”<sup>5</sup>**

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<sup>5</sup> Proof Committee Hansard - Senate Community Affairs References Committee Canberra  
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### ***Response to Question 5:***

Automatic conferral of Australian citizenship would not always be in the best interests of former child migrants as automatic conferral could have implications for existing citizenship/s as well as any legal or other claims they may have overseas. It is therefore considered more appropriate that a person apply for Australian citizenship should they wish to do so.

When a person applies for citizenship it is generally taken as an indication that the individual actively wants citizenship and accepts the responsibilities and privileges that go with it.

The Australian Government recognises that many long term residents, such as former child migrants, have made a significant contribution to this country and consider themselves very much a part of Australia, although legally they are not Australian citizens.

Many post war migrants from Britain believed they were Australian citizens because they enjoyed most of the rights and responsibilities of Australian citizenship. However, Australian citizenship law does not, as a general rule, allow for automatic citizenship for persons other than those born in Australia in certain circumstances or those who were covered by transitional arrangements on 26 January 1949 when the first Australian Citizenship Act was introduced.

Service in the armed forces, for example, does not and never has given an automatic right of citizenship. People who served as permanent members in the Australian Defence Force for three months are not required to meet a residence requirement and do not have to pay a fee to apply for citizenship but they do need to provide a letter or discharge papers from the Australian Defence Force specifying dates of service. They must be permanent residents of Australia at the time of applying.

Since November 1995, former child migrants have not been required to pay an application fee for citizenship by conferral if they arrived in Australia between 22 September 1947 and 31 December 1967 under the British Child Migrant Scheme. On 1 July 2005, regulations were amended to include a nil fee concession for former child migrants from Malta. However, former child migrants must meet all the other legislative requirements for the conferral of citizenship including residence and character requirements.

The Government provides information on citizenship issues specifically for former child migrants. An information pamphlet has been produced in consultation with the Child Migrants Trust to assist former child migrants applying for citizenship. This is available through the Child Migrants Trust.