



Our Ref: 200802609

Senator Trish Crossin
Chair
Inquiry into the Stolen Generation Compensation Bill 2008
Senate Standing Committee on Legal and Constitutional Affairs
Department of the Senate
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Senator

Inquiry into the Stolen Generation Compensation Bill 2008

Thank you for your letter dated 18 March 2008 inviting submissions to the Commonwealth Standing Committee on Legal and Constitutional Affairs Inquiry into the Stolen Generation Compensation Bill 2008.

I support the intent of the Bill, its acknowledgement of the Stolen Generations and its proposal to allocate funding for healing centres and relevant support services.

In Western Australia, it is estimated that there are currently between three and four thousand living members of the Stolen Generations. Following the release of the *Bringing them Home* report, on 27 May 1997, the Western Australian Parliament passed a joint motion of apology "for the past policies under which Aboriginal children were removed from their families and (expressed) deep regret at the hurt and distress that this caused". In response to some of the recommendations of *Bringing them Home* the State Government also funded a range of initiatives including Link-Up, family history and well being programs and projects. Funding has also been provided for cultural awareness programs to improve public sector awareness of the history of forced removal and its implications for Indigenous clients.

In order to facilitate a national acknowledgement of the Stolen Generations, the outstanding recommendations from the *Bringing them Home* Report require prioritisation by the Commonwealth and State Governments in consultation with Indigenous stakeholders. The Western Australian Government is willing to work collaboratively with the Commonwealth to assist with this process.

As the Committee may be aware, the Western Australian Government also announced, in December 2007, a \$114 million Redress WA scheme to assist in the healing process for adults who, as children, were abused while in the care of the State of Western Australia, including Stolen Generation members who were abused while in care.

Applications to Redress WA open for 12 months from 1 May 2008 and must be lodged by 30 April 2009. Eligible individuals will be able to apply for an *ex gratia* redress payment. Members of the stolen generation who were removed from their families as children and were subsequently abused or neglected while in the care of the State are eligible to apply for an *ex gratia* payment of up to \$10 000 if they show they experienced abuse while in State care, or up to a maximum of \$80 000 where there is medical or psychological evidence of loss or injury as a result of that abuse.

Counselling services are a pivotal feature of the Redress WA scheme and will be available to applicants at critical times. In particular, it is envisaged that the time when applicants are preparing the application will be stressful as this will necessarily cause past abuse or neglect to resurface, and counselling will be available to persons prior to lodging their application as well as after their application has been determined. Financial counselling will also be available to those successful applicants who wish to obtain some advice about how to best manage their redress payment.

In addition, a range of support services including personal support, financial counselling and independent legal advice are to be made available. In time, a prominent and permanent memorial will also be established to acknowledge those who have suffered in State care in the past and, on a personal level, people will be given the opportunity to formally record their own stories on their official files.

While, unlike the proposed Stolen Generation Compensation Fund, Redress WA does not require a discrete legislative base, it will permit many applicants who would otherwise have been unable to seek damages through the court system, due to the operation of the limitations legislation in this State, to access compensation. It has been developed to provide a humane alternative to the common laws claims system.

It does not appear, upon reading the Stolen Generations Compensation Bill 2008, that the ex gratia payments made by Redress WA would prohibit an applicant's eligibility for payments from the proposed Stolen Generations Compensation Fund. Should the Bill be passed, our Governments would need to ensure that members of the Western Australian Stolen Generations compensated for child abuse in State care under Redress WA remain eligible for consideration and compensation under the proposed Commonwealth scheme. It would be unfair for a person who has already received a payment under a State regime such as the Redress WA scheme (because it was the only scheme existing at the time) to be ineligible for a payment under the Commonwealth regime where that payment was higher, because the Commonwealth scheme was not available at the time the State application was lodged or paid. It is suggested that the legislation be amended to give people who have already received a payment from State/Territory compensation regimes the opportunity to apply for the difference in amounts from the Commonwealth.

Any further queries regarding the Redress WA scheme, how it operates in Western Australia and how it interfaces with the Stolen Generation Compensation Bill may be directed to Mr Steve Bradford, Acting Executive Director, Redress WA on 08 6217 8419.

In conclusion, I also recommend that the proposed Stolen Generations Tribunal include Indigenous representatives from each jurisdiction in order that familiarity with the diverse historical and cultural experiences of the Stolen Generations is reflected in the decisions of the group.

Yours sincerely



Alan Carpenter MLA
PREMIER

21 APR 2008