

Senator the Hon Rachel Siewert
Chair, Reference Committee
C/- Committee Secretariat
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

16 January 2018

Dear Senator

Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017 and related bill

On 30 November 2017, the Senate referred the *Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017* and the *Commonwealth Redress Scheme for Institutional Child Sexual Abuse (Consequential Amendments) Bill 2017* to the Senate Community Affairs Legislation Committee for inquiry and report.

The Alliance for Forgotten Australians (AFA) has very serious concerns about the Bills. AFA has encouraged all parties to seek further discussion with the Commonwealth about the deficiencies in the proposed redress legislation. AFA has also called on other advocacy and peak bodies and professional associations to support an urgent review of the proposed redress legislation.

Our concerns are outlined in the attached submission. I would be very happy to meet with you and the committee to discuss these further.

Yours sincerely



Caroline Carroll OAM
Chair
Alliance for Forgotten Australians

Submission – Alliance for Forgotten Australians – response to ***Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017*** and related bill

1. Advocacy by the Alliance for Forgotten Australians

The [Alliance for Forgotten Australians](#) (AFA) has advocated strongly and consistently for a national redress scheme that is open to all survivors of out-of-home ‘care’; equitable and inclusive of all forms of abuse; transparent in process; and independently administered.

AFA has participated actively and collaboratively with the Royal Commission into Institutional Responses to Child Sexual Abuse; the Australian Government; and the Independent Advisory Council on Redress.

2. It has taken thirteen years for the Commonwealth to act on the recommendation for a national redress scheme

A national redress scheme for Forgotten Australians, care leavers, Former Child Migrants and the Stolen Generations has been recommended by numerous Senate and Human Rights Commission inquiries over the past two decades, initially in the *Forgotten Australians* report of the 2004 Senate Inquiry.

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended in 2015 that a national redress scheme be established. The Commission did not recommend *against* a national redress scheme that covered *all* forms of institutional child abuse; it noted that its terms of reference limited what they could recommend to matters relating to *sexual* abuse.

3. Eligibility, scope and structure of the redress scheme

AFA notes that there has been much comment and discussion about the eligibility and structure of a national redress scheme. AFA has carefully considered the tabled legislation [Commonwealth Redress Scheme for Institutional Child Sexual Abuse Bill 2017](#). Following this consideration, AFA has *significant* concerns with the proposed legislation because it is not equitable; not inclusive of all forms of abuse; and not independently administered.

The proposed scheme will leave a very large number of adult survivors of out-of-home ‘care’ excluded, discarded and forgotten.

A national redress scheme requires the involvement of all states and territories, and all institutions involved in the ‘care’ of children. At the time of writing this submission, no jurisdiction has opted to join the scheme. The redress scheme announced by the Australian Government will be a national scheme

only if *all* states, territories and past providers of 'care' opt in. It will only be an inclusive scheme if it covers *all* forms of abuse.

4. Is it too late for justice for those who suffered in the 'care' of the state?

Children and young people in institutional 'care' commonly experienced physical, psychological and sexual abuse on a deep and sustained level. Such trauma has caused them lifelong harm.

Did any child 'opt in' to an orphanage? Did any child decide at three years of age that they would never see their family again? Did any child choose to take part in multiple sexual activities while their guardian, the state, turned a blind eye? Did a 10-year-old boy believe that cutting and hauling stone and heavy equipment was a career choice, which as a 60-year-old man, now means he can hardly walk and is in constant pain - but he wasn't sexually abused?

Many of us are dying prematurely; some are opting to end their lives, having spent a lifetime waiting, having spent a lifetime in physical and emotional pain, and now often alone, ill, and facing the terror of re-institutionalisation in old age. Once more Forgotten Australians and other survivors are pawns in the game of passing the buck while waiting for justice. How many more will die until a truly national and inclusive redress scheme is in place?

The Senate Inquiry Report in 2004 estimated that there were 500,000 Forgotten Australians. The Royal Commission's report on redress and civil litigation estimated that 60,000 would be eligible for redress under its recommendations. Minister Christian Porter talked about a figure of 1,000 initially. So what is to become of the other 499,000? Many believe that governments are simply waiting for us to die.

5. Criminal exclusions policy

Minister Porter has stated that survivors convicted of any sexual offence or another serious crime such as drug, homicide or fraud offences for which they received a custodial sentence of five or more years will be ineligible to apply for the scheme. This appears largely to be in response to concerns raised by states and territories.

While AFA understands the rationale which may have led to the announcement of this policy, we have serious concerns about the merits of this policy and believe that it is proposed without sufficient understanding and consideration of the context in which many Forgotten Australians and other survivors spent their early years.

The 2004 Senate Inquiry Report *Forgotten Australians* (6.49) identified that many survivors turned to crime when they were released from institutional 'care' and were unable to adjust to living on the outside. Many Forgotten Australians had no families, no support networks, and no life skills. Many turned to criminal activities, including theft and prostitution, to survive. Others masked their pain through the use of drugs. We also know that some committed crimes in order to be incarcerated, because jail was a more appealing alternative to homelessness and starvation. Is there a clearer measure of their despair?

If the operations of this bill exclude survivors, they are punished three times: firstly through the institutional practices which took away their childhoods; secondly through the grief, loss and trauma which has affected their entire lives; and thirdly through ineligibility for redress and justice. Sadly, this third punishment appears to be an expedient, cynical and traumatic outcome for survivors and what remains of their families.
