

Standing Committee on Law and Justice

Legacy report 55th Parliament

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Terms of reference

These terms of reference were referred to the committee by the House on 13 August 2014.

1. That the standing committees on Law and Justice, Social Issues and State Development produce legacy reports that:
 - (a) inform their successor committees of the activities undertaken during the 55th Parliament and any matters that would benefit from further inquiry in the 56th Parliament, and
 - (b) make recommendations to the Chairs' Committee, if necessary, regarding any matters relating to committees and the inquiry process that require particular action.
2. That the committees report by 13 November 2014.

Committee membership

The Hon David Clarke MLC	Liberal Party	<i>Chair</i>
The Hon Peter Primrose MLC	Australian Labor Party	<i>Deputy Chair</i>
Mr Scot MacDonald MLC	Liberal Party	
The Hon Sarah Mitchell MLC	The Nationals	
The Hon Shaoquett Moselmane MLC	Australian Labor Party	
Mr David Shoebridge MLC	The Greens	

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Chair's foreword

I am pleased to present the first Legacy report of the Standing Committee on Law and Justice.

The committee has been very active during this 55th Parliament, inquiring into issues pertaining to law and justice in New South Wales, including racial vilification law, opportunities to consolidate tribunals, the Motor Accidents Authority, the Lifetime Care and Support Authority and the former Motor Accidents Council and Lifetime Care and Support Authority Council.

In 2012 the Law and Justice committee was given an additional role to oversight the WorkCover Authority and Workers' Compensation (Dust Diseases) Board. We have embraced our new responsibility and look forward to seeing our successor committees continue this important function of protecting the rights of injured workers across New South Wales.

The work achieved by this committee culminated in an inquiry into the family response to the murders that occurred in the township of Bowraville in the early 1990s. While each and every one of our inquiries has been important, this inquiry particularly stands out as one that we will forever remember from our time as members of Parliament.

The Bowraville inquiry was both unique and emotional. The committee felt privileged to meet with the families of the three murdered children and have them share their very personal stories. While there are undoubtedly significant hurdles remaining for the families to overcome to reach their ultimate goal of justice, we sincerely hope that we have been able to assist the families in some way with their endeavours through our inquiry.

On behalf of the committee I would like to thank everyone that has participated in our inquiries. Many of these participants are longstanding stakeholders who have contributed to the majority of Law and Justice inquiries over the years. We thank these stakeholders for their continued involvement which has enabled us to understand many varied and complex issues.

I also thank my committee colleagues, who – I am proud to say – have worked in a positive and collegiate manner throughout this Parliament.

Finally, I thank the various secretariat staff who have assisted the committee for their continued professional support and dedication.



The Hon David Clarke MLC
Committee Chair

Summary of recommendations

Recommendation 1

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That, during the 56th Parliament, the Standing Committee on Law and Justice consider alternative consultation methods for its reviews of the Workers' Compensation (Dust Diseases) Board.

Recommendation 2

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That, should Recommendation 6 of the report into *The family response to the murders in Bowraville* not be implemented by the NSW Government, the Chairs' Committee consider the provision of training opportunities to committee members on Aboriginal cultural awareness. The training should include information on how to interact appropriately with Aboriginal inquiry participants, how to notify and convey information, and how to take evidence at committee inquiries.

Recommendation 3

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That, during the 56th Parliament, the Standing Committee on Law and Justice meet with the Community Justice Coalition during the first months of the committee's deliberations to discuss issues regarding women in prison.

Chapter 1 The committee

This chapter provides a brief overview of the committee, discusses the work of the committee in the current parliament and outlines the purpose of this legacy report.

Committee overview

- 1.1** The NSW Legislative Council's Standing Committee on Law and Justice was first established on 24 May 1995,¹ building on the prior establishment of the first Standing Committees on State Development and Social Issues in 1998.² The committee was reappointed in each of the subsequent parliaments, most recently on 9 May 2011 during the 55th Parliament.³ The committee celebrated many of its achievements throughout these years during C25 events held in September 2013 to commemorate the 25th anniversary of the establishment of the modern Legislative Council committee system.⁴
- 1.2** The committee conducts inquiries into matters concerned with law and justice in New South Wales, including legal and constitutional issues such as law reform, parliamentary matters, criminal law, administrative law and the justice system, and matters concerned with industrial relations and fair trading.⁵
- 1.3** The committee consists of six Legislative Council members, comprising three government members, two opposition members and one crossbench member.⁶ The membership of the committee throughout the 55th Parliament can be found on page v.
- 1.4** Since the 51st Parliament, the committee has tabled 53 reports on a wide range of issues, including:
- the eligibility of members of Parliament to serve on juries (2010)
 - adoption by same sex couples (2009)
 - legislation on altruistic surrogacy in New South Wales (2009)
 - unfair terms in consumer contracts (2006)
 - back-end home detention (2005)
 - NSW Bill of Rights (2001)
 - child sexual assault prosecutions (2002)
 - workplace safety (1998)
 - mandatory life sentences (1995).

¹ *Minutes*, Legislative Council, 24 May 1995, pp 36-42.

² *Minutes*, Legislative Council, 9 June 1988, pp 182-186.

³ *Minutes*, Legislative Council, 9 May 2011, pp 75-77.

⁴ See: <http://www.parliament.nsw.gov.au/prod/web/common.nsf/key/C25>

⁵ *Minutes*, Legislative Council, 9 May 2011, pp 76.

⁶ *Minutes*, Legislative Council, 9 May 2011, pp 76-77.

The 55th Parliament

- 1.5 During the 55th Parliament, the committee conducted nine inquiries:
- Eleventh Review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council
 - Fourth Review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council
 - Opportunities to consolidate tribunals in New South Wales
 - Review of the exercise of the functions of the Workers' Compensation (Dust Diseases) Board
 - Review of the exercise of the functions of the WorkCover Authority
 - Twelfth Review of the exercise of the functions of the Motor Accidents Authority
 - Fifth Review of the exercise of the functions of the Lifetime Care and Support Authority
 - Racial vilification in New South Wales
 - The family response to the murders in Bowraville.
- 1.6 Copies of the committee's reports and the government responses to those reports are available on the committee's website: www.parliament.nsw.gov.au/lawandjustice.

The purpose of a legacy report

- 1.7 The preparation of legacy reports by each of the three standing committees of the NSW Legislative Council was first recommended by the Chairs' Committee in August 2014.⁷ The House agreed to a motion of the Deputy President, the Hon Jenny Gardiner MLC, that such reports be produced.⁸
- 1.8 The terms of reference for the preparation of the legacy report is reproduced on page iv.
- 1.9 Accordingly, this is the first legacy report prepared by the NSW Legislative Council's Standing Committee on Law and Justice.
- 1.10 The purpose of this legacy report is to provide a summary of the committee's work during the 55th Parliament in order to inform the successor committee in the 56th Parliament of the committee's accomplishments and suggestions for future activity.
- 1.11 Legacy reports have also been prepared by the two other standing committees of the 55th Parliament: the Standing Committee on Social Issues and the Standing Committee on State Development.

⁷ The Chairs' Committee is comprised of all the chairs of the standing and select committees of the NSW Legislative Council. It is chaired by the President.

⁸ *Minutes*, Legislative Council, 13 August 2014, p 2654.



Law and Justice Committee on Bowraville site visit



Law and Justice Committee public hearing on functions of WorkCover Authority

Chapter 2 Inquiries conducted

This chapter comprises a short summary of each inquiry undertaken during the 55th Parliament, including the manner in which the inquiry was referred, a summary of key issues and the key recommendations made by the committee. The chapter also briefly discusses the government response to those recommendations.

Eleventh review of the exercise of the functions of the Motor Accidents Authority and the Motor Accidents Council

- 2.1** Until 2012, s 210 of the *Motor Accidents Compensation Act 1999* required a committee of the Legislative Council to supervise the exercise of the functions of the Motor Accidents Authority (MAA) and the Motor Accidents Council (MAC). Between 1999 and 2012, a resolution of the Legislative Council designated the Standing Committee on Law and Justice to undertake this role. Between 2008 and 2012, the committee had been required to undertake this review at least once every two years.
- 2.2** Section 210 of the *Motor Accidents Compensation Act* was repealed in June 2012 by the *Safety, Return to Work and Support Board Act 2012*. This will be discussed in more detail later in this chapter at paragraph 2.83.
- 2.3** The committee resolved to commence its 11th review of the MAA and MAC on 22 June 2011.⁹ The committee reviewed the way in which the authority and the council had exercised their functions since the committee's prior review in October 2010 and examined the MAA's *Annual Report 2009/2010*. The 11th review was conducted concurrently with the committee's fourth review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council, discussed further below.
- 2.4** The committee received 16 submissions and held two public hearings at Parliament House.
- 2.5** The final report for the inquiry was tabled on 20 December 2011 and made 12 recommendations.

Report summary

Scheme performance

- 2.6** The committee found that the NSW Motor Accidents Scheme, the MAA and the MAC continue to perform in an effective manner. The committee was satisfied that the scheme continued to function in an appropriate manner when assessed against the broad performance indicators of affordability and effectiveness. The committee also accepted that, as measured against average weekly wage, a Compulsory Third Party (CTP) Green Slip was considerably more affordable at the time of its report than it had been ten years prior.

⁹ Standing Committee on Law and Justice, *Eleventh review of the functions of the Motor Accidents Authority and the Motor Accidents Council* (2011).

- 2.7 The committee's examination placed particular focus on issues such as fair and efficient pricing and compensation, access to damages for pain and suffering, improving health outcomes for those involved in the scheme and the adequacy of crash reporting data. The committee made a number of recommendations in relation to those issues.

Insurer profits

- 2.8 A number of inquiry participants echoed concerns expressed in previous years regarding the size of profits realised by insurers. The MAA had previously advised that a statutory requirement to present a report on the insurers' CTP profit margin and the actuarial basis for its calculation was satisfied by data published in the MAA's Annual Report, however, the committee was not satisfied that the MAA was adequately fulfilling its statutory obligation and recommended that the MAA present a report on these matters to the committee on an annual basis.
- 2.9 The committee also made recommendations concerning the publication of information regarding the CTP pricing review, revision of the regulation governing the recoverability of legal costs, physiotherapy fee schedules and the publication of information to assist carers.

Motor Accidents Assessment Service

- 2.10 The committee recommended that the NSW Government review the threshold for access to damages for non-economic loss under the Motor Accidents Scheme in order to achieve a better balance between scheme efficiency and compensation.
- 2.11 The committee also recommended that the MAC form a sub-committee to review, analyse and recommend a course of action to the MAA on the issue of legal causation, and that the MAA meet with the NSW Bar Association and other stakeholders as soon as practicable with a view to finding a solution to the issue of pre-settlement conferences under s 89A of the *Motor Accidents Compensation Act 1999*.

Government response

- 2.12 The NSW Government response was received on 20 June 2012.¹⁰ The government:
- supported six recommendations
 - supported in principle five recommendations
 - advised that the MAA would take the committee's concerns on the issue of access to damages for non-economic loss into the development of the Green Slip pricing strategy and include those matters in public consultation processes.

Committee reflections

- 2.13 The committee was sufficiently concerned about the high levels of profits made by insurance companies from the scheme that we commenced preliminary investigations into engaging an actuarial consultant to assist the committee to further examine this issue. The committee

¹⁰ See: [http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/6cd5bf050c7c72d2ca25796c000bf165/\\$FILE/120620%20Government%20response_MAA_Eleventh.pdf](http://www.parliament.nsw.gov.au/prod/parlament/committee.nsf/0/6cd5bf050c7c72d2ca25796c000bf165/$FILE/120620%20Government%20response_MAA_Eleventh.pdf)

ultimately decided not to pursue this course of action; however, we have since made another, more specific recommendation in the 12th review (discussed later in this chapter) for the MAA to report annually to the committee about insurer profits.

- 2.14** The committee notes that since the completion of this inquiry, the New South Wales motor accidents scheme has undergone significant change, and the Motor Accidents Council has been abolished. These changes will also be discussed further under the summary of the 12th review.

Fourth review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council

- 2.15** The Lifetime Care and Support (LTCS) Scheme is a NSW Government initiative that provides for the lifetime treatment and care of people who have suffered a catastrophic injury as a result of a motor accident, regardless of who was at fault. The scheme operates pursuant to the *Motor Accidents (Lifetime Care and Support) Act 2006* and is administered by the Lifetime Care and Support Authority (LTCSA). A levy is collected through Compulsory Third Party (CTP) insurance for the purpose of covering the scheme's costs.
- 2.16** Between 2006 and 2012, s 68 of the *Motor Accidents (Lifetime Care and Support) Act 2006* provided that a committee of the Legislative Council was to be designated to supervise the exercise and functions of the LTCSA and the Lifetime Care and Support Advisory Council (LTSCAC). Between 2007 and 2012, a resolution of the Legislative Council designated the Standing Committee on Law and Justice to fulfil this function.
- 2.17** Section 68 of the *Motor Accidents (Lifetime Care and Support) Act* was repealed in June 2012 by the *Safety, Return to Work and Support Board Act 2012*. This will be discussed in more detail later in this chapter at paragraph 2.99.
- 2.18** The committee resolved to commence the fourth review of the authority and the advisory council on 22 June 2011.¹¹ The review was conducted concurrently with the committee's 11th review of the MAA and MAC (discussed earlier).
- 2.19** The committee received 19 submissions and held two public hearings at Parliament House.
- 2.20** The final report for the inquiry was tabled on 20 December 2011 and made 14 recommendations.

Report summary

Consideration of biennial review of the LTCSA and LTCSAC

- 2.21** For the first time, the committee canvassed stakeholders' views as to whether the committee's reviews should be conducted biennially rather than annually. Stakeholders expressed views both for and against annual reviews, and the potential introduction of a National Injury

¹¹ Standing Committee on Law and Justice, NSW Legislative Council, *Fourth review of the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council* (2011).

Insurance Scheme was discussed as a factor in this decision. On balance, the committee considered that biennial review of the LTCSA would be preferable and recommended that the Legislative Council amend the resolution designating the committee with responsibility for supervising the authority and the advisory council accordingly.

Scheme operation and performance

- 2.22** The committee canvassed the results of the most recent participant satisfaction survey, which found that more than 83 per cent of respondents were satisfied with the scheme's ability to meet their needs. The committee also noted a distinct stabilisation of the scheme's operation.
- 2.23** The committee noted that although there were no participant members of the LTCSAC, previous reviews carried out by the committee had recommended their inclusion, and this was broadly supported by stakeholders, including the authority itself. The committee therefore recommended a stand-alone legislative amendment to enable participant involvement on the council.

Entry into the scheme, opting-out of the scheme and dispute resolution

- 2.24** In response to feedback from stakeholders, and further to recommendations made during previous reviews, the committee made recommendations that the LTCSA evaluate the medical assessment tools to assess eligibility criteria, with particular focus on strategies to avoid inequity in scheme eligibility; review the adequacy of the Accident Advice Support Grant; and work with the Brain Injury Rehabilitation Directorate and other stakeholders to examine the feasibility of a more robust and independent dispute resolution process for disputes concerning eligibility and treatment.

Administration of the scheme

- 2.25** The committee heard that the administrative burden of the scheme on stakeholders, in particular medical professionals, continued to be of concern. The committee recommended that the LTCSA collaborate with service providers to simplify and standardise forms with a view to minimising duplication of information and limiting the administrative burden on service providers. The committee also made recommendations regarding the need for improved communication and information between the authority and stakeholders.

Treatment, rehabilitation and care services

- 2.26** The committee particularly focused on issues relating to the provision of 'reasonable and necessary' treatment, care and support, transitional accommodation, the passage into law of the *Carers Recognition Act 2010* and the support provided by the LTCSA to facilitate participant's recreation and leisure activities. The committee made a number of recommendations aimed at enhancing the LTCSA's performance in this regard.

Government response

- 2.27** The NSW Government response was received on 20 June 2012.¹² The government:

¹² See: [http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/5348ac40ec464cfbca25796c000ce284/\\$FILE/120620%20Government%20respnse_LCASA_Fourth.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/5348ac40ec464cfbca25796c000ce284/$FILE/120620%20Government%20respnse_LCASA_Fourth.pdf)

- supported four recommendations
- supported in principle seven recommendations
- advised that one recommendation was under consideration
- partially supported one recommendation
- did not support one recommendation.

2.28 The response noted that work had already begun to implement a number of the measures aimed at improving collaboration and information sharing with stakeholders.

Committee reflections

2.29 The committee notes that since the completion of this review, the LTCSAC has been abolished. This will be discussed in more detail under the summary of the 5th review of the LTSCA.

2.30 We also note that since this review the committee has moved to undertaking biennial reviews of the LTCSA and found that this is an appropriate timeframe for reviewing this authority.

Opportunities to consolidate tribunals in NSW

2.31 On 14 October 2011, the then Minister for Finance and Services, the Hon Greg Pearce MLC, the then Attorney General, the Hon Greg Smith MP and the then Minister for Fair Trading, the Hon Anthony Roberts MP, referred to the committee an inquiry to consider opportunities to reform, consolidate or transfer functions between tribunals to increase efficiency and effectiveness.¹³ The terms of reference required the committee to have regard to the recommendations made by the NSW Parliament Committee on the Ombudsman and Police Integrity Commission in 2002 on the merger of tribunals.¹⁴

2.32 The committee received 89 submissions and eight supplementary submissions. The committee held three public hearings at Parliament House and undertook two site visits, the first to the Consumer, Trader and Tenancy Tribunal (CTTT) to view the proceedings of the tribunal, and the second to the Victorian Civil and Administrative Tribunal (VCAT) to gain an understanding of how a large super tribunal operates in another jurisdiction.

2.33 The committee also held a roundtable discussion on 18 November 2011, where members of the committee met with Justice John Chaney, President of the Western Australian State Administrative Tribunal, and Ms Linda Crebbin, President of the Australian Capital Territory Civil and Administrative Tribunal, to discuss the process of consolidation of tribunals in their relevant jurisdictions.

¹³ Standing Committee on Law and Justice, NSW Legislative Council, *Opportunities to consolidate tribunals in NSW* (2012).

¹⁴ Committee on the Office of the Ombudsman and the Police Integrity Commission, NSW Parliament, *Report on the jurisdiction and operation of the Administrative Decisions Tribunal*, (2002) pp 56-58.

- 2.34** The final report was tabled on 22 March 2012 and contained 16 recommendations with a view to consolidate tribunals in New South Wales, with a particular emphasis on increasing access to justice for all tribunal users.

Report summary

Options for consolidation

- 2.35** The NSW Government provided the committee with three options for consolidation that were presented in a Ministerial Issues Paper at the beginning of the inquiry, as well as alternatives to those options contained in the Issues Paper.
- 2.36** The committee recommended that a consolidation of tribunals should be pursued by the NSW Government, but concluded that it had not received sufficient evidence to determine the most preferable method for consolidation. However, the committee was confident that an expert panel consisting of senior legal professionals, senior members of existing tribunals, relevant government officials and other stakeholders would be well-equipped to do so.
- 2.37** The committee recommended that such a panel be established to pursue the consolidation, formulation and appropriate structure of a consolidated tribunal, and prepare a detailed plan for the implementation of consolidation, including which tribunals should be consolidated. In making the recommendation, the committee acknowledged the enormity of the task involved and the multiple complexities involved.
- 2.38** The committee recommended that the NSW Government review the effectiveness of the new consolidated tribunal model three years after the enabling legislation had come into effect.

Access to justice

- 2.39** In considering opportunities to consolidate tribunals in New South Wales, the committee was guided by an overwhelming consensus from stakeholders about the importance of ensuring access to justice for tribunal users.
- 2.40** The committee therefore recommended that the expert panel ensure that factors such as equitable access, community awareness, online publication of resources, an equitable internal appeals process, access to services in regional areas, the provision of user-friendly forms and practices and user access to reasons for tribunal decisions be paramount to the work of the expert panel in determining the method and implementation of a consolidated tribunal in New South Wales.

Specific tribunals

- 2.41** The committee was specifically asked to review the operation of the CTTT. The committee found that, overall, the CTTT was providing an effective avenue through which consumer disputes could be resolved in a relatively timely and effective manner. However, the committee also acknowledged that some improvements could be made and recommended that, if the CTTT remained a standalone tribunal, the tribunal investigate ways to more accurately measure the quality of decision making and consider establishing an internal appeals panel with an appropriate monetary threshold.

NSW Government response

- 2.42 The NSW Government response was received on 26 October 2012.¹⁵ The government advised that it had decided to establish the NSW Civil and Administrative Tribunal (NCAT), which would consolidate 23 existing tribunals. The government further advised that a Steering Committee would be established to guide the practical implementation of NCAT, while a broader reference group would be convened to provide input into the Steering Committee's deliberations.
- 2.43 The government anticipated that NCAT would commence operations in January 2014.

Committee reflections

- 2.44 The committee is pleased to note that since the completion of our inquiry, the NSW Government has consolidated 22 of the state's tribunals into a new, overarching tribunal – the NCAT.
- 2.45 The consolidated tribunals include the Consumer, Trader & Tenancy Tribunal, Administrative Decisions Tribunal and Victims Compensation Tribunal through to relatively small bodies such as the Chinese Medicine Tribunal.
- 2.46 The committee notes that a small number of bodies, including the Industrial Relations Commission, were not consolidated into NCAT, however, that they may be considered for consolidation in future.

Review of the exercise of the functions of the Workers' Compensation (Dust Diseases) Board

- 2.47 In 2012 the committee was given a new oversight role to supervise the exercise of the functions of the Workers' Compensation (Dust Diseases) Board.
- 2.48 The new role arose after the introduction of the *Safety, Return to Work and Support Board Act 2012*, s 11 of which requires a committee of the Legislative Council to supervise the exercise of the functions of the Workers' Compensation (Dust Diseases) Board.
- 2.49 The Legislative Council designated the Standing Committee on Law and Justice to perform the statutory oversight role on 14 November 2012. Under the resolution, the committee is to report at least once every two years.
- 2.50 The Dust Diseases Board, which has operated for over 85 years, has exclusive jurisdiction to examine, hear and determine all matters and questions arising out of a claim for compensation under the *Workers' Compensation (Dust Diseases) Act 1942*. The scheme provides compensation for workers (and their dependents) with a compensable dust disease by occupational exposure to dust during employment in New South Wales.

¹⁵ See: [http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/d7563a349d93087dca2579c8007b50c6/\\$FILE/121029%20Government%20response_%20Tribunal_Final.pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/d7563a349d93087dca2579c8007b50c6/$FILE/121029%20Government%20response_%20Tribunal_Final.pdf)

- 2.51** The committee resolved to commence its first review of the board on 19 June 2013.¹⁶ The review was conducted concurrently with the committee's first review of the WorkCover Authority (see below).
- 2.52** The committee received seven submissions and held three public hearings in Sydney.
- 2.53** The committee tabled its final report on 3 September 2014. The report contained two findings and one recommendation.

Report summary

- 2.54** The committee found that the overwhelming view of review participants was that the Dust Diseases Board and its compensation scheme were performing in an exemplary manner. The committee acknowledged that it is a rare feat for a government agency to receive such uniform praise from stakeholders and the commended the board for performing its functions to such a high standard.
- 2.55** The committee considered five proposals for improving the efficiency of the board and scheme, relating to:
- introducing a provisional liability process for malignant claims processed by the board
 - removing the cap placed on medical expenses
 - appointing an independent chair to the Dust Diseases Board
 - increasing public awareness of the Dust Diseases Board and workers' rights to compensation, and
 - enhancing the board's industrial history officers' investigative powers to ensure the accuracy of their reports, as these documents often form the basis of an applicant's claim at the Dust Diseases Tribunal.
- 2.56** While the committee acknowledged the merits of some of the proposals, the committee's only recommendation to improve the scheme was that the NSW Government investigate the feasibility of introducing provisional liability for malignant claims to the scheme.

Government response

- 2.57** The NSW Government response is due on 3 March 2015.

Committee reflections

- 2.58** Given that the Dust Diseases Board has been operating for over 85 years, and the small number of issues raised by stakeholders regarding the board's exercise of its functions, we expect that future Law and Justice committee reports on the Dust Diseases Board will be very brief.

¹⁶ Standing Committee on Law and Justice, NSW Legislative Council, *Fifth review of the exercise of the functions of the Lifetime Care and Support Authority* (2014).

- 2.59 Successor committees may even wish to consider whether the typical inquiry process of hearings is necessary for these reviews, or whether they could be replaced with alternatives such as a written question on notice process.

Recommendation 1

That, during the 56th Parliament, the Standing Committee on Law and Justice consider alternative consultation methods for its reviews of the Workers' Compensation (Dust Diseases) Board.

Review of the exercise of the functions of the WorkCover Authority

- 2.60 In 2012 the committee was also given another new oversight role to supervise the exercise of the functions of the WorkCover Authority of NSW.
- 2.61 The new role also arose after the introduction of the *Safety, Return to Work and Support Board Act 2012*, s 11 of which requires a committee of the Legislative Council to supervise the exercise of the functions of the WorkCover Authority.
- 2.62 The Legislative Council designated the Standing Committee on Law and Justice to perform the statutory oversight role on 14 November 2012. Under the resolution, the committee is to report at least once every two years.
- 2.63 The WorkCover Authority of NSW governs one of the most comprehensive workers compensation and injury assessment frameworks in Australia. WorkCover also acts as the nominal insurer for the New South Wales workers compensation scheme through the Workers Compensation Insurance Fund and performs the insurer's operational functions.
- 2.64 The committee resolved to commence its first review of the authority on 22 October 2013.¹⁷ The review was conducted concurrently with the committee's first review of the Workers Compensation (Dust Diseases) Board (see above).
- 2.65 The committee received 43 submissions and conducted three public hearings in Sydney.
- 2.66 The committee tabled its final report on 17 September 2014 and made 26 recommendations to build on significant reforms already made to workers compensation since 2012.

Report summary

- 2.67 A key factor underpinning the review was the ongoing repercussions of reforms made to the workers compensation scheme in 2012, which were enacted in response to the scheme operating with an estimated deficit of \$4 billion.

¹⁷ Standing Committee on Law and Justice, NSW Legislative Council, *Review of the exercise of the WorkCover Authority* (2014).

Performance of the scheme

- 2.68** The committee found that since the implementation of the reforms, there had been a significant improvement to the scheme's financial sustainability. As of May 2014, the scheme's surplus had grown to approximately \$1.4 billion.

Access to medical treatment, paid legal representation and information and guidelines

- 2.69** In spite of the financial benefits of the reforms, stakeholders identified a number of areas where the reforms have limited the assistance available to injured workers, including access to medical treatment, access to paid legal representation and access to information and guidelines.
- 2.70** The committee reported that the Minister for Finance and Services had announced that, as a consequence of the scheme's improved financial position, some of the 2012 reforms would be rolled back. This would ensure broader access to medical related treatment for scheme participants, the extension of medical benefits for workers with whole person impairment of between 21 per cent and 30 per cent until retirement age, and a five per cent reduction in premiums. These changes were welcomed by the committee.
- 2.71** However, the committee also made a series of recommendations aimed at increasing access to medical benefits, enforcing the timeframe in which insurers make decisions regarding treatments and the penalties applied, enabling legal practitioners to recover fair and reasonable fees for work undertaken in connection with a work capacity decision (with a view to increasing the number of lawyers practising in the field, thereby increasing access to legal assistance), and improving WorkCover's public information sources and consultation processes.

Conflicts of interest

- 2.72** Inquiry participants also raised concerns regarding WorkCover's ability to undertake its multiple roles in the regulation, implementation and enforcement of the scheme and work health and safety legislation.
- 2.73** The committee recommended that the Minister for Finance and Services, in consultation with the WorkCover Independent Review Office and other relevant stakeholders, consider the establishment of a separate agency or other administrative arrangements to clearly separate the roles of regulator and nominal insurer in the workers compensation scheme, and implement that model as soon as practicable.
- 2.74** In response to concerns relating to conflicts of interest in WorkCover's role in reviewing work capacity assessments, the committee heard that WorkCover had commenced a review of the segregation of functions and delegations around its role in that regard. The committee recommended that stakeholders be consulted for the purposes of the review, and that the findings of the review be published as soon as practicable.
- 2.75** The committee also recommended that WorkCover review and implement protocols to minimise conflicts occurring in its role as both the work health and safety regulator and as an advisor to workplaces.

WorkCover Independent Review Office (WIRO)

- 2.76 The WIRO was created as a result of the 2012 reforms to deal with individual complaints and provide greater accountability to the workers compensation system. The WIRO is also responsible for the Independent Legal Assistance and Review Service.
- 2.77 The committee recommended that the *Government Sector Employment Act 2013* be amended to designate WIRO as a separate agency with budgetary independence from WorkCover.

Return to work provisions

- 2.78 Concerns were raised that some employers may fail to understand or adhere to their obligations to provide work if a worker who has been incapacitated as a result of an injury is able to return to suitable work and requests to return to work.
- 2.79 The committee recommended that WorkCover review the mechanisms contained in the *Workplace Injury Management and Workers Compensation Act 1998* to ensure compliance with these obligations, including the use of incentives to encourage compliance and deterrents for non-compliance. The committee also recommended that WorkCover undertake an education campaign to inform employees and employers of their rights and obligations in this regard.

Government response

- 2.80 The NSW Government response is due on 17 March 2015.

Committee reflections

- 2.81 It is essential that adequate support be provided to injured workers to assist them to return to work and participate in the community. The committee therefore welcomes its new oversight role of the WorkCover Authority as we consider this to be an extremely important duty.
- 2.82 The committee has made 26 recommendations which we believe will assist injured workers by improving the performance of WorkCover, providing enhanced support to injured workers and preserving the ongoing financial sustainability of the scheme. We encourage our successor committee to closely consider the government's response to our recommendations, and follow up on any unresolved issues in order to hold the WorkCover Authority to account.

Twelfth review of the exercise of the functions of the Motor Accidents Authority

- 2.83 As mentioned at paragraphs 2.1-2.2, the committee has had responsibility to oversight the MAA since 1999. With the passage of the *Safety, Return to Work and Support Board Act 2012*, the legislative basis for that responsibility was repealed and replaced with a new provision creating an expanded oversight role incorporating the MAA, LTCSA, WorkCover Authority and the Workers Compensation (Dust Diseases) Board (discussed earlier).
- 2.84 The Legislative Council designated the Standing Committee on Law and Justice to perform this statutory oversight role on 14 November 2012. Under the resolution, the committee is to report at least once every two years.

- 2.85** The committee resolved to commence the 12th review of the MAA on 10 September 2013.¹⁸ The committee evaluated the way in which the MAA had exercised its functions since the committee tabled its last report in December 2011, and examined the MAA's 2010/11, 2011/12 and 2012/13 Annual Reports. The review was conducted concurrently with the committee's fifth review of the LTCSA (see below).
- 2.86** The final report was tabled on 3 July 2014 and contained 16 recommendations.

Report summary

New governance structure

- 2.87** This review took place following the enactment of a new governance structure. The *Safety, Return to Work and Support Board Act 2012* established the Safety, Return to Work and Support Board (the board) to oversee the functions of the Motor Accidents Authority (MAA), the WorkCover Authority, the Workers' Compensation (Dust Diseases) Board and the Lifetime Care and Support Authority. The Act abolished the individual boards of directors of the MAA, LTCSA and WorkCover and brought them under the auspices of the new board.

Advisory committee

- 2.88** The Act also abolished the MAA's Motor Accidents Council. The role of the council was to facilitate input from relevant stakeholders on the scheme and consider issues referred by the MAA. In past reviews the committee had often recommended that points of contention be referred to the council for consultation and analysis. Stakeholders raised concerns that a new advisory committee to the MAA had not been established by the Minister for Finance and Services.
- 2.89** The committee heard that there was a lack of formal stakeholder interaction at a macro level for the purposes of policy generation, and recommended that the Minister establish a Motor Accidents Advisory Committee under s 10 of the Act, comprised of representatives from the legal, insurance, health and community sectors.

Reforms to the scheme

- 2.90** The committee observed that the period since the committee's previous review in 2011 had been uncertain for the scheme and the MAA, as the NSW Government's proposed scheme reform in 2013 did not eventuate following the discharge of the Motor Accident Injuries Bill 2013 from parliament. The intention of the bill was to introduce a 'no fault' or 'universal cover' scheme that would have made more than 7,000 additional people injured in motor vehicle accidents eligible for benefits.
- 2.91** The committee found that, although the reforms did not proceed, the MAA continued to perform its functions in an effective manner. Nevertheless, the committee noted that there remained a desire amongst many stakeholders for the scheme to be amended to make it more affordable and efficient. The committee therefore recommended that the government implement some of the proposed changes from the discharged bill that were supported by

¹⁸ Standing Committee on Law and Justice, NSW Legislative Council, *Twelfth review of the exercise of the functions of the Motor Accidents Authority* (2014).

many stakeholders. The committee also recommended a review of insurer profits and the identification of barriers to new entrants to the scheme.

Progress on previous recommendations

- 2.92** The government had envisaged that reforms to the scheme could be achieved with the passage of the Motor Accidents Injuries Bill 2013. The committee observed that some of its previous recommendations had not been implemented due to the bill being discharged, while other recommendations were put on hold in expectation of the scheme being reformed. The committee commended the MAA on the progress it had made to implementing several of its previous recommendations.

Insurer profits

- 2.93** The level of insurer profits remained a key concern of many stakeholders. The weighted average prospective profit over the life of the scheme averages around eight per cent, however, insurer profits have actually averaged closer to 19 per cent over the same period.
- 2.94** The committee heard that this difference has led to insurers receiving \$2,123 million in ‘super-profit’, above the prospective profit.
- 2.95** The committee stated that issue of the disparity between prospective and realised profits must be addressed, and therefore recommended that there be a prompt review into the high level of insurer profits.

Government response

- 2.96** The NSW Government response is due on 3 January 2015.

Committee reflections

- 2.97** The committee adopted a new report structure for this review in order to provide a more succinct report that has a greater focus on following up on the implementation of recommendations made by the committee in the previous review. We found this to be an effective method to evaluate the authority’s performance. To assist this process in future reviews we suggest that successor committees request an update from the MAA during the pre-hearing stage on the implementation of recommendations from the previous review.
- 2.98** The committee notes that on 9 May 2013 the NSW Government introduced the Motor Accidents Injuries Amendment Bill 2013 in order to significantly reform the scheme, including by implementing a no-fault motor accidents scheme. However, that bill was discharged in August 2013.
- 2.99** As a result, during this review the scheme was in a very similar position to the previous review, with many of the problems highlighted in 11th review again raised by stakeholders.
- 2.100** In regard to the issue of insurer profits, the committee also recommended that the MAA report annually to the committee by 30 April on a comprehensive review of scheme performance that includes an analysis of the drivers of high levels of insurer profits. We suggested it would be valuable for the MAA to present to the Law and Justice committee on

the contents of these reports, and encourage our successor committee to follow up on these matters.

Fifth review of the exercise of the functions of the Lifetime Care and Support Authority

- 2.101** As mentioned at paragraph 2.16, the committee has had responsibility to oversight the LTCSA since 2007. With the passage of the *Safety, Return to Work and Support Board Act 2012*, the legislative basis for that responsibility was repealed and replaced with a new provision creating an expanded oversight role incorporating the LTCSA, MAA, WorkCover Authority and the Workers Compensation (Dust Diseases) Board (discussed earlier).
- 2.102** The Legislative Council designated the Standing Committee on Law and Justice to perform this statutory oversight role on 14 November 2012. Under the resolution, the committee is to report at least once every two years.
- 2.103** The committee resolved to commence the fifth review of the LTCSA on 10 September 2013.¹⁹ The committee evaluated the way in which the authority had exercised its functions since the committee tabled its previous report in December 2011 and examined the LTCSA's 2010/11, 2011/12 and 2012/13 Annual Reports. The review was conducted concurrently with the committee's 12th review of the MAA.
- 2.104** The committee received 13 submissions and six supplementary submissions. Two public hearings were held at Parliament House.
- 2.105** The final report was tabled on 3 July 2014 and made 10 recommendations.

Report summary

- 2.106** This review took place following the enactment of a new governance structure. As noted above, the *Safety, Return to Work and Support Board Act 2012* established the Safety, Return to Work and Support Board (the board) to oversee the functions of the LTCSA, the Motor Accidents Authority (MAA), the WorkCover Authority, the Workers' Compensation (Dust Diseases) Board. The Act abolished the individual boards of directors of the LTCSA, MAA and WorkCover and brought them under the auspices of the board. The Act also abolished the Lifetime Care and Support Advisory Council.

Advisory groups and stakeholder consultation

- 2.107** Unlike the evidence received during the 12th review of the MAA (discussed above), the committee did not receive evidence that an advisory committee was necessary for the LTCSA. The committee observed that, in lieu of an advisory committee, the LTCSA had convened an advisory group to consult on LTCS guidelines, assist with identifying gaps in service delivery and inform new initiatives in their area of expertise. The group represents several key stakeholder groups. The LTCSA had also established a 'Participant Reference Group' to

¹⁹ Standing Committee on Law and Justice, NSW Legislative Council, *Fifth review of the exercise of the functions of the Lifetime Care and Support Authority* (2014).

advise on its policies, procedures and service initiatives, with membership also consisting of key stakeholders. Feedback received suggested that stakeholder consultation was generally working well.

Performance of the scheme

- 2.108** The committee found that overall the scheme was working very well to provide support to people who are catastrophically injured in motor vehicle accidents. A number of stakeholders commended the LTCSA for its ongoing work to improve its processes and for operating in a spirit of collaboration.
- 2.109** The committee was particularly pleased that the LTCSA had committed to aligning itself with the values of the National Disability Insurance Scheme (NDIS) to provide greater choice and control for participants. In particular, the LTCSA had convened a Participant Reference Group to enhance the role of participants in the scheme and intended to commence a direct-funding trial.

Access to information

- 2.110** The committee heard that there was a lack of publicly available information on the scheme's performance. The committee made a number of recommendations aimed at addressing these concerns and calling for greater accountability by the LTCSA, including the provision of more information in its annual report and online.

Other areas of concern

- 2.111** The committee also made recommendations regarding the implementation of a more robust and independent dispute resolution process for disputes concerning eligibility and treatment, interim accommodation options for individuals discharged from hospital and the exploration of options for promoting greater self-management of care.

Government response

- 2.112** The NSW Government response is due on 3 January 2015.

Committee reflections

- 2.113** As with the report on the 12th review of the MAA, the committee adopted the same new report structure for this review in order to provide a more succinct report that has a greater focus on following up on the implementation of recommendations made by the committee in the previous review. As with the MAA report, this proved to be an effective method to evaluate the authority's performance. To assist this process in future reviews we suggest that successor committees request an update from the LTCSA during the pre-hearing stage on the implementation of recommendations from the previous review.
- 2.114** The committee notes that during this review the NDIS was on trial in the Hunter region, with plans to fully roll out the scheme across New South Wales by 2018. We encourage our successor committee to give particular consideration to the interaction and differences between the LTCSA scheme and the NDIS during the 56th Parliament.

Racial vilification law in New South Wales

- 2.115** The inquiry into racial vilification law in New South Wales was referred to the committee by the then Premier, the Hon Barry O'Farrell MP on 20 November 2012. The terms of reference required the committee to consider, in particular:
- the effectiveness of section 20D of the *Anti-Discrimination Act 1977* which creates the offence of serious racial vilification
 - whether section 20D establishes a realistic test for the offence of racial vilification in line with community expectations, and
 - whether section 20D establishes a realistic test for the offence of racial vilification in line with community expectations.²⁰
- 2.116** The committee received 45 submissions and one supplementary submission, and held two public hearings at Parliament House.
- 2.117** The final report was tabled on 3 December 2013 and contained 15 recommendations, most of which sought to address procedural impediments to the effective operation of s 20D.

Report summary

- 2.118** The inquiry looked specifically at s 20D of the *Anti-Discrimination Act 1977* (NSW) which sets out the criminal offence for serious racial vilification. At the time at which the report was tabled, there had been no prosecutions under this provision.
- 2.119** The committee determined that the effectiveness of s 20D had been hindered by a number of procedural impediments and made several recommendations designed to overcome these issues. In particular, the committee proposed a new model for s 20D prosecutions, including recommendations that issues with timeframes for lodging and referring complaints be addressed, that the President of the Anti-Discrimination Board be permitted to directly refer serious racial vilification complaints to the NSW Police Force, and that the NSW Police Force be authorised to prepare a brief of evidence for the Director of Public Prosecutions, following the referral of a serious racial vilification complaint.
- 2.120** The committee acknowledged issues raised in relation to the substance of s 20D, such as whether the requirement to prove incitement should be modified or whether the means element should be amended or repealed. The committee made few recommendations on these issues as they wished to see the effect of their procedural recommendations first, confident that if the procedural issues with s 20D were resolved then many of the other matters raised during the inquiry may no longer be an issue, or as significant of an issue. Nevertheless, several recommendations were made proposing changes to the provisions of s 20D.
- 2.121** In order to assess this, the committee proposed that there be another review of the effectiveness of s 20D, to be conducted as soon as possible after five years from the implementation of any of the amendments recommended by the committee to s 20D.

²⁰ Standing Committee on Law and Justice, NSW Legislative Council, *Racial vilification law in NSW* (2013).

Government response

- 2.122** The NSW Government response was received on 3 June 2014.²¹ The government advised that it was continuing to consider the important issues raised in the committee's report and was liaising with responsible agencies in determining its response.

Committee reflections

- 2.123** The committee notes that we still have not received a government response that addresses each of the committee's recommendations, as required under Standing Order 233.
- 2.124** The committee also notes that at the time of this inquiry racial vilification laws were also being considered at the federal level. The Commonwealth Attorney General, Senator the Hon George Brandis QC, had announced plans to repeal s 18C of the *Racial Discrimination Act 1975* (Cth), which makes it unlawful for someone to do an act that is reasonably likely to 'offend, insult, humiliate or intimidate' someone because of their race or ethnicity.
- 2.125** On 25 March 2014, Attorney General Brandis released an exposure draft bill on the proposed amendments to the Act. The call for submissions closed on 30 April 2014 and the Federal Government is in the process of considering the submissions. While the impact of any amendments to the Commonwealth legislation will not affect s 20D of the *Anti-Discrimination Act 1977* (NSW), we will be interested in hearing the outcome of this process.

The family response to the murders in Bowraville

- 2.126** On 26 November 2013, the Legislative Council resolved that the Standing Committee on Law and Justice inquire into and report on the family response to the murders in Bowraville of three Aboriginal children: Colleen Walker-Craig, Evelyn Greenup and Clinton Speedy-Duroux.²²
- 2.127** Between September 1990 and January 1991, Colleen Walker-Craig, aged 16, Evelyn Greenup, aged 4 and Clinton Speedy-Duroux, aged 16, went missing from the same street in the small township of Bowraville. While the bodies of Evelyn Greenup and Clinton Speedy-Duroux and clothing belonging to Colleen Walker-Craig were found in bushland bordering the town, Colleen's body has never been found. A local man was prosecuted for the murders of Clinton and Evelyn in two separate trials conducted in 1994 and 1996 respectively, but was acquitted on both counts. Although the same man is suspected in all three murders, due to various legal impediments identified during the inquiry, the evidence relating to all three murders has never been considered together by a court.
- 2.128** The inquiry was established to give the children's families the opportunity to appear before the committee and detail the impact the murders of the three children and subsequent related events have had on them and their community.

²¹ See: [http://www.parliament.nsw.gov.au/Prod/Parlment/committee.nsf/0/e08d4387100a3c56ca257c35007fcc4d/\\$FILE/Government%20response%20%20Racial%20vilification%20law%20in%20NSW%20-%20received%203%20June%202014.pdf](http://www.parliament.nsw.gov.au/Prod/Parlment/committee.nsf/0/e08d4387100a3c56ca257c35007fcc4d/$FILE/Government%20response%20%20Racial%20vilification%20law%20in%20NSW%20-%20received%203%20June%202014.pdf)

²² Standing Committee on Law and Justice, NSW Legislative Council, *The family response to the murders in Bowraville* (2014).

- 2.129** The committee received 30 submissions and four supplementary submissions. Prior to the commencement of hearings, the committee conducted a site visit to Bowraville to meet with officers of the NSW Police Force and a member of the Duroux family for a briefing on the circumstances surrounding the murders and subsequent investigations and legal processes. The committee also met with family members of the three children to discuss the inquiry process.
- 2.130** The committee then held two public hearings in Macksville and Sydney, and one private roundtable discussion in Macksville open only to members of the three families and their support people.
- 2.131** The committee concluded the inquiry process by meeting with representatives of the families in Bowraville to consult on potential recommendations the committee could make prior to the finalisation of its report.
- 2.132** The committee tabled its final report on 6 November 2014, which contained 15 recommendations.

Report summary

- 2.133** This inquiry was particularly unique in character. The terms of reference required the committee to report on the family impact of a series of murders that affected a small and tightly knit community in many different ways. It quickly became apparent that at the heart of the community's concern was a desire for justice, specifically for the cases to be retried together before the courts.
- 2.134** Central to this concern was the effect of legislative amendments introduced in New South Wales in 2006, which altered the operation of the common law principle of double jeopardy for very serious offences, such as murder. Following the enactment of these amendments, the NSW Police Force and members of the families had made a series of applications to the Director of Public Prosecutions and Attorneys General to request that an application be made to the Court of Criminal Appeal for an order that the Person of Interest identified in connection with the three murders be retried for the murders of Clinton and Evelyn and ex-officio indicted for the murder of Colleen. In each case, the application was refused.
- 2.135** The committee's report canvassed the complex process of the investigations into the murders; the trial process; the legislative amendments introduced in 2006 and subsequent amendments enacted; the process by which the applications for retrial had been made, considered and refused; and the impacts on the families of their experiences of these processes and the lack of resolution to their continued attempts to achieve justice for their children. A number of failings were identified.
- 2.136** The committee made a number of recommendations that addressed:
- improving the NSW Police Force's policies and procedures
 - improving access to Aboriginal Witness Assistance Services
 - implementing Aboriginal cultural awareness training for legal practitioners, members of Parliament and parliamentary staff

- the judiciary's use of jury directions regarding cultural and linguistic factors
- the provision of funding for mental health support and culturally-specific counselling services for the families and their communities
- the establishment of a working group to examine the adequacy of mental health services in the towns of Bowraville and Tenterfield
- funding assistance to assist the beautification and maintenance of memorials dedicated to the children.

2.137 The committee also recommended that the NSW Government review s 102 of the *Crimes (Appeal and Review) Act 2001*, which contains double jeopardy provisions under which an application for a retrial can be made in particular circumstances, and that the merits of any new application for a retrial of the Bowraville murders be considered by an independent assessor, such as a retired judge or senior prosecutor from another jurisdiction.

2.138 The committee's report formally acknowledged the pain and suffering experienced by the families of the three children over the past 23 years, and acknowledged that this was significantly and unnecessarily contributed to by the failings identified in its report.

2.139 The committee also made a number of positive observations concerning the skill and dedication of a number of the police officers assigned to the cases in the latter years of the investigatory process, the valuable work conducted by the mental health clinical nurse consultant who was worked most closely with the families in recent years and the strength, fortitude and tenacity shown by the three families over a protracted period of frustration and uncertainty during their efforts to achieve justice for their children.

Government response

2.140 The NSW Government response is due on 6 May 2015.

Committee reflections

2.141 As noted above, this inquiry was particularly unique in character. While the committee is accustomed to inquiring into matters of broad public policy or questions of law, the terms of reference for this inquiry required the committee to report on the family impact of a series of murders that affected a small and tightly knit community in different and complex ways.

2.142 Prior to its first visit to Bowraville, the committee sought training in Aboriginal cultural awareness from Dr Diana Eades, a sociolinguist from the University of New England who specialises in cultural English. The committee found this training particularly beneficial and recommended that similar training opportunities be provided to other members of Parliament and their staff. We consider that such training would be beneficial to members both in their day to day interactions with constituents, and for the purposes of future committee inquiries in which members interact closely with Aboriginal people.

2.143 We hope that the government will accept this recommendation. However, if it does not, we recommend that the Chair's Committee consider the provision of such training opportunities to committee members and their staff in future parliaments.

Recommendation 2

That, should Recommendation 6 of the report into *The family response to the murders in Bowraville* not be implemented, by the NSW Government the Chairs' Committee consider the provision of training opportunities to committee members on Aboriginal cultural awareness. The training should include information on how to interact appropriately with Aboriginal inquiry participants, how to notify and convey information, and how to take evidence at committee inquiries.

- 2.144** During this inquiry the committee consulted with representatives from the three families about some potential recommendations the committee could make to provide better support and services to the families and their communities, and to acknowledge the pain and suffering they have experienced over the past 23 years. This was an invaluable exercise which enabled the committee to tailor its recommendations to best meet the needs of a discrete group of stakeholders. Indeed, extensive consultation with the affected families was a central feature of the inquiry from the beginning.
- 2.145** On 6 November 2014 the committee tabled its report in the House and commenced the take note debate immediately. This unusual step was to enable the families, who had travelled to Sydney from the Bowraville and Tenterfield regions, to sit in the gallery and witness the live debate. The committee then held a lunch for the family members which allowed the family to ask committee members questions arising from the report and the debate.

Other matters considered by the committee

- 2.146** On 25 September 2014, the committee received an invitation from the Hon John Dowd AO QC, President, Community Justice Coalition, to meet with the committee to discuss issues related to women in prison.
- 2.147** Given that the invitation was received toward the end of the parliament, we believe that such a meeting would be of more value to our successor committee. We therefore recommend that the next Standing Committee on Law and Justice meet with the Community Justice Coalition during the first months of the committee's deliberations to discuss the matters identified in Mr Dowd's correspondence, should the invitation still stand.
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Recommendation 3

That, during the 56th Parliament, the Standing Committee on Law and Justice meet with the Community Justice Coalition during the first months of the committee's deliberations to discuss issues regarding women in prison.

Appendix 1 Minutes

Draft minutes no. 48

Wednesday 5 November 2014

Standing Committee on Law and Justice

Parkes Room, Parliament House, 1.10 pm

1. Members present

Mr Clarke, *Chair*

Mr MacDonald

Mrs Mitchell

Mr Shoebridge

2. Apologies

Mr Primrose

Mr Moselmane

3. Previous minutes

Resolved, on the motion of Mrs Mitchell: That draft minutes no. 47 be confirmed.

4. Correspondence

The committee noted the following items of correspondence:

Sent:

- 3 November 2014 - Letter from Chair to Hon Victor Dominello MP inviting him to attend lunch with Bowraville inquiry stakeholders post tabling of report on 6 November 2014
- 3 November 2014- Letter from Chair to Ms Linda Burney inviting her to attend lunch with Bowraville inquiry stakeholders post tabling of report on 6 November 2014.

5. Legacy report of 55th Parliament

5.1 Consideration of Chair's draft report

Resolved, on the motion of Mr Shoebridge: That:

- the draft report be the report of the committee and that the committee present the report to the House;
- the committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- the report be tabled on 13 November 2014.

5.2 Thank you to secretariat

Resolved, on the motion of Mr Shoebridge: That the committee thank all committee staff for their extraordinary level of assistance throughout the 55th Parliament.

6. ***

7. Adjournment

The committee adjourned at 1.17pm *sine die*.

Teresa McMichael

Clerk to the Committee