

**Submission
No 34**

**INQUIRY INTO REPARATIONS FOR THE STOLEN
GENERATIONS IN NEW SOUTH WALES**

Organisation: Department of Premier and Cabinet

Date received: 28/10/2015

Ms Jan Barham MLC
Chair
General Purpose Standing Committee No. 3
Parliament House
Macquarie St
SYDNEY NSW 2000

Dear Ms Barham

Thank you for the invitation for the NSW Government to provide a submission to the Inquiry into Reparations for the Stolen Generations in New South Wales being conducted by General Purpose Standing Committee No. 3.

NSW was the first State government to offer a formal apology for the practices and policies that were responsible for the creation of the Stolen Generations. The NSW Government recognises that many of the issues that continue to be faced by Aboriginal families reflect the legacy of these past practices. The NSW Government is committed to working in partnership with Aboriginal people, communities and organisations to make reparation for past injustices, and promote social justice, equality and reconciliation.

Please find enclosed the NSW Government submission, which provides an overview of current policy initiatives designed to respond to the legacy of harm and trauma arising from past Government practices.

If you require further information on the NSW submission, please contact Executive Director, Social Policy, in the Department of Premier and Cabinet on

Yours sincerely

Blair Comley PSM
Secretary

28 October 2015

General Purpose Standing Committee No. 3.

Inquiry into Reparations for the Stolen Generations in New South Wales

NSW Government Submission

Introduction

The NSW Government submission is provided to assist the Committee to understand current policy initiatives and arrangements that respond to the recommendations of the *Bringing them Home* report. The NSW Government has a range of policies in place which respond to and acknowledge the harm and trauma caused by previous Government policies.

The NSW Government recognises the need to address past practices which have had an adverse impact on Aboriginal people, and many Government programs have been developed to respond to problems that uniquely affect Aboriginal people.

The NSW Government response to *Bringing them Home* was to make reparations through the engagement of Aboriginal people in the development and delivery of programs and services, rather than monetary compensation.

The NSW Government continues to work in partnership with Aboriginal people, communities and organisations to make reparation for past injustices, and promote social justice, equality and reconciliation.

Through its Aboriginal affairs strategy, *OCHRE*, the NSW Government has recognised the importance of healing in addressing the legacy of past policy and practice.

Structure of the submission

This submission provides a cross section of NSW Government initiatives across the following issues and themes:

1. Apology for past practices and policies
2. *OCHRE* – The NSW Government’s plan for Aboriginal affairs
3. *OCHRE*’s focus on healing
4. Improvements to child protection practices affecting Aboriginal people
5. Establishment of the Family Records Unit
6. Changes to the school curriculum and teacher training to recognise the history and experience of Aboriginal people
7. Developing cultural competency and supporting Aboriginal leadership in the public sector workforce
8. Health initiatives to address the gap in health outcomes for Aboriginal people
9. Justice interventions to address the overrepresentation of Aboriginal people in the criminal justice system
10. Aboriginal Trust Fund Repayment Scheme
11. Improving standards of practice in civil litigation

NSW Government departments and agencies will be available throughout the Inquiry’s proceedings to provide further information or clarification about existing or past government programs or initiatives, if required.

1. Apology for past practices and policies

On 18 June 1997, the NSW Government became the first in the country to offer a formal apology to Aboriginal people for practices and policies that were responsible for the Stolen Generations. The NSW Parliament unanimously passed the Premier's resolution. The NSW Government also issued a Statement of Commitment to Aboriginal people in November 1997, establishing the Government's commitment to equality and justice for Aboriginal people.

In recognition of their role in the removal of Aboriginal children from their families, the heads of key NSW Government agencies also apologised for past practices including NSW Police and other NSW Justice Agencies; NSW Department of Juvenile Justice; NSW Department of Community Services; NSW Health; and NSW Department of Ageing and Disability.

Amendment to the NSW Constitution recognising Aboriginal people as the first people in NSW

In September 2010, an amendment to the NSW Constitution formally recognised Aboriginal people as the first people in NSW. The Constitutional amendment acknowledges the Aboriginal people of NSW and the lasting contribution of Aboriginal people to the State and its identity.

The amendment introduced the following section into the Constitution Act 1902 preamble:

- 1) *Parliament, on behalf of the People of New South Wales, acknowledges and honours the Aboriginal people as the State's first people and nations.*
- 2) *Parliament, on behalf of the People of New South Wales, recognises that Aboriginal people as the traditional custodians and occupants of the land in New South Wales:*
 - a) *have a spiritual, social, cultural and economic relationship with their traditional lands and waters; and*
 - b) *have made and continue to make a unique and lasting contribution to the identity of the State.*
- 3) *Nothing in this section creates any legal right or liability, or gives rise to or affects any civil cause of action, or affects the interpretation of any Act or law in force in New South Wales.*

Ongoing recognition and commemoration

NSW Health and the Department of Family and Community Services (FACS) both have in place Statements of Commitment to Aboriginal people, which recognise the Stolen Generations and the ongoing impact that forced removal of children has had on the lives and experience of Aboriginal people, families and communities. These Statements are expressions of regret over past practices and policies.

NSW Government agencies, including FACS, NSW Aboriginal Affairs, and NSW Health commemorate National Sorry day on May 26 each year, to mark the anniversary of the Bringing them Home report.

2. **OCHRE – The NSW Government’s plan for Aboriginal affairs**

In April 2013 the NSW Government introduced *OCHRE*, the NSW Government’s plan for Aboriginal affairs, in response to a Ministerial Taskforce which undertook extensive consultation with Aboriginal people across NSW. *OCHRE* (Opportunity, Choice, Healing, Responsibility and Empowerment) signalled a re-setting of the Government’s relationship with Aboriginal communities.

OCHRE was developed in response to a strong desire expressed by Aboriginal communities and other key stakeholders for change and the need for Government to build a genuine and sustainable partnership with Aboriginal communities and Aboriginal organisations.

OCHRE initiatives to recognise the importance of culture and self determination

Bringing them Home highlighted the impact that Stolen Generations policies had on Aboriginal culture and communities. *OCHRE* recognises Aboriginal languages and cultures as a unique component of Australia’s heritage.

Through *OCHRE*, five Aboriginal Language and Culture Nests have been established in NSW to enable Aboriginal people and communities to reclaim, revitalise and maintain their traditional Aboriginal languages. These Aboriginal Language and Culture Nests provide an opportunity for Aboriginal and non-Aboriginal students to learn Aboriginal languages in schools and are supported by curriculum developed by Board of Studies, Teaching and Educational Standards (BOSTES). They also provide a critical pathway to community empowerment, cultural self-determination, cultural connection and reconnection, and cultural health and wellbeing. Language and Culture Nests are a vital component in the healing process for Aboriginal people. By learning an Aboriginal language, career pathways and employment opportunities for Aboriginal students and community members are broadened and enhanced.

OCHRE also recognises the importance of Aboriginal leadership and self-determination. Through *OCHRE*, the Local Decision Making (LDM) initiative seeks to increase the direct involvement of Aboriginal people in the design and delivery of services in their communities. LDM is being implemented across six sites in NSW:

- Far Western NSW - Murdi Paaki Regional Assembly
- Illawarra South East - Illawarra and Wingecarribee Local Decision Making Advisory Committee
- North Coast - Regional Aboriginal Development Authority
- Central West - Three Rivers Regional Assembly
- Central Coast - Barang Central Coast Aboriginal Community Organisations Network
- New England North West - Northern Region Aboriginal Alliance (NRAA)

LDM will be underpinned by formally negotiated Accords identifying how community and Government will work together to address community priorities.

OCHRE responds to the demand for effective service co-ordination across Government and a strengthened focus on education, employment and Aboriginal

decision making as keys to overcoming Aboriginal disadvantage. LDM communities will progressively gain more control over eligible NSW government services and programs in their communities, and move along a pathway of self-governance to build management skills and decision making authority. Government in turn will become more flexible and responsive to the needs of Aboriginal communities, recognising and supporting Aboriginal leadership and decision-making.

3. OCHRE's focus on healing

Through *OCHRE*, the NSW Government was the first in Australia to incorporate Healing into its Aboriginal affairs policy. This commitment recognises the continuing trauma and harm caused by the forced removal of Aboriginal people from their families and communities under past government policies. The NSW history of trauma and loss has manifested in disadvantage, depression, substance abuse and anti-social behaviour. *OCHRE* reflects the NSW Government commitment to work with Aboriginal communities to advance the dialogue about the trauma and loss experienced by Aboriginal people in NSW. It recognises that healing is key to overcoming inter-generational trauma and loss and changing outcomes for future generations.

Healing forums

The *Healing Forum - Mapu Yaan Gurri, Mapu Marrunggirr - Healing Our Way* - was jointly convened by Aboriginal Affairs and the Aboriginal and Torres Strait Islander Healing Foundation (the Healing Foundation) in July 2014. More than 200 delegates, representing 68 organisations participated in the Forum to advance the dialogue in NSW about trauma and healing and to develop an appropriate role for Government in healing.

The Mapu Yaan Gurri Mapu Marrunggirr - Healing Our Way Forum Report was released on 5 March 2015. The Report covers the issues and discussion outcomes raised at the Forum.

For people who were forcibly removed, and their descendants, reparation is unfinished business. Key findings of the Forum are that there is no quick fix; trauma has had an impact on Aboriginal people and cultures over many generations; and healing is personal, unique and nuanced and must be allowed to take its own shape over time.

Healing Our Way highlighted the importance for Aboriginal people to be at the centre of discussions about redress. The NSW Government has committed to continue the dialogue with Aboriginal communities about how government can support healing. Aboriginal Affairs and the Healing Foundation will work in partnership with Aboriginal communities to develop six regional healing forums in NSW during 2016-2017.

4. Improvements to child protection practices

NSW Government agencies have put in place a range of initiatives to safeguard against a repeat of past practices and policies which led to the separation of Aboriginal and Torres Strait Islander children from their families. Participation by

Aboriginal families in decision making in the child protection and OOHC systems is required to address past wrongs and to enhance outcomes for Aboriginal children young people and families.

Aboriginal and Torres Strait Islander principles

Aboriginal children and young people are overrepresented in the child protection system and account for 36 per cent of children and young people in Out-of-Home Care.

Part 2 of Chapter 2 of the *Children and Young Persons (Care and Protection) Act 1998* (the Act) enacts Aboriginal and Torres Strait Islander principles. These are a clear set of principles to guide all actions and decisions taken under the Act in relation to child protection matters involving Aboriginal and Torres Strait Islander children.

- Section 11 provides that Aboriginal and Torres Strait Islander people are to participate in the care and protection of their children with as much self-determination as is possible.
- Section 12 provides that Aboriginal and Torres Strait Islander families, kinship groups and communities must be given the opportunity to participate in significant decisions about their children, including decisions about placement.
- Section 13 sets out a general order for placement for Aboriginal and Torres Strait Islander children and young persons who need to be placed in statutory Out-of-Home Care (OOHC) or under a guardianship order.

FACS staff must adhere to the Aboriginal and Torres Strait Islander Child Placement Principles and, wherever safe to do so, will endeavour to place a child with family and/or kin. Nearly two thirds of Aboriginal and Torres Strait Islander children and young people in OOHC were placed with Aboriginal carers, as at the end of June 2013, with the majority (45 per cent) in relative and kinship care. FACS provided \$50m in 2014/15 to Aboriginal non government organisations to provide OOHC services to Aboriginal children. This is part of FACS' commitment to better meet the cultural needs of Aboriginal children.

Initiatives to support adherence to Aboriginal and Torres Strait Islander principles

The practical application of the principles is supported by Aboriginal Case Consultation panels who work with staff to help identify local networks and families that are connected to the child or young person. Where restoration to family is not considered possible, and an Aboriginal child is unable to live with relatives or kin, a placement with a non-related person in the Aboriginal community or another suitable person may be considered in line with the child's best interests and in consultation with the Aboriginal communities.

FACS provides funding for LinkUp NSW, which was established in 1980 to assist the former wards of the Aborigines Protection Board. LinkUp's Family Link Program assists Aboriginal children and young people who are at risk of removal, or have already been removed, by finding other relatives who may be able to provide kinship placement options for FACS and out of Home Care agencies.

Initiatives targeting the overrepresentation of Aboriginal children and young people in OOHC and improving decision making

FACS has implemented strategies focused on reducing the overrepresentation of Aboriginal and Torres Strait Islander children in the OOHC and child protection systems, and improving the participation of Aboriginal people in decision making regarding the care and protection of Aboriginal children and young people.

The Intensive Family Based Services (IFBS) Program provides time-limited, intensive support program for vulnerable Aboriginal children and their families. IFBS works with Aboriginal families, with children at risk of significant harm, to address risk and increase child safety by improving life skills, parenting capacities, coping abilities and problem solving. Where risks are adequately reduced and managed, children are able to remain safely at home with their families.

The Aboriginal Family Group Conferencing (AFGC) program has been explicitly designed to improve the participation of Aboriginal people in decision making in child protection matters. AFGC provides parents, family, extended family, community and appropriate significant people with the opportunity to participate in Community Services decision making processes affecting the safety of Aboriginal children and young people involved in the child protection and out of home care systems. AFGC is being piloted in four locations by the Aboriginal Child, Family and Community Care State Secretariat (AbSec) in partnership with FACS.

Protecting Aboriginal Children Together (PACT) is an independent cultural advisory and support service that provides specialist advice on Aboriginal child protection cases referred by FACS. It assists Aboriginal children, young people and families who come into contact with the NSW child protection system by ensuring the cultural needs and best interests of the child and young person are considered throughout the child protection process. The service was developed jointly by FACS and AbSec, based on Victoria's 'Lakidjeka' program, and is delivered by Aboriginal NGOs in Moree and Shellharbour.

Improvements to the way child protection services work with Aboriginal people and families

FACS has in place a Service Charter for Aboriginal Clients, which sets out the basic standard of service that Aboriginal clients can expect from FACS and the process for seeking improvements. The FACS Care and Protection Practice Standards strengthen role clarity, confidence and professionalism of the child protection workforce in NSW. A key practice expectation is to 'work in a way that is culturally responsive and sensitive to the continued impact of the Stolen Generations, but acknowledges current risk'.

5. Establishment of the Family Records Unit

Bringing them Home highlighted the right of every person who experienced forced removal from their family to have access to all information relating to themselves, including information which is necessary to establish the identity of family members.

Aboriginal Affairs is custodian of the former Aborigines Welfare Board (AWB) records. In 2002 the Family Records Unit (FRU) was created in Aboriginal Affairs to index and provide access to personal and family information contained in the AWB records to Stolen Generations members and their descendants. The FRU service also had an important role in improving accessibility of records through the digitisation and indexing of the AWB records. During 2014-15, the FRU received a total of 414 applications for personal family history research, with 407 processed and 7 placed 'on hold' until additional information and supporting documentation are received.

6. Changes to school curriculum and teacher training

The Department of Education (DoE) has implemented an Aboriginal Education and Training Policy, which aims to improve outcomes for Aboriginal students as well as educating all students and the wider community about Aboriginal histories and cultures. DoE has also incorporated aspects of *Bringing them Home* into the syllabus for K-6 Human Society and Its Environment and Years 7-10 Aboriginal Studies, and integrated Aboriginal History and cultural content into the teaching of Years 7-10 English, Maths, Science and History.

The K-10 History syllabus was revised by the Board of Studies, Teaching and Educational Standards (BOSTES) in 2012 and includes content on the impact of the past practices and policies on Aboriginal people, and the experiences of Aboriginal and Torres Strait Islander peoples who were forcibly removed from their families.

From 2016, students in Year 11 and 12 will be able to study Aboriginal languages for the HSC, through the Aboriginal Languages Stage 6 Content Endorsed Course. This course demonstrates a commitment to supporting the reclamation and revitalisation of language in Aboriginal Communities

Accreditation of teachers by BOSTES includes requirements in Aboriginal Education to ensure that all graduate teachers have content in relation to Aboriginal cultures and history, teaching strategies for Aboriginal students, issues of inclusion and an awareness of policies and priorities. BOSTES will be conducting a review in 2015 of the implementation of the Aboriginal education requirement across teaching programs, with the aim of identifying best practice and areas for improvement.

7. Developing cultural competency and supporting Aboriginal leadership in the public sector

NSW Government agencies have in place a range of frameworks and policies designed to develop cultural competency and understanding of issues faced by Aboriginal people and communities in the public sector workforce.

Examples of frameworks and strategies for greater cultural competency

The NSW Health *Aboriginal Cultural Training Framework: Respecting the Difference* develops cultural competencies in delivering health services to Aboriginal people. To enable better relationships with Aboriginal people, training has been designed to provide all NSW Health staff with an insight into why many Aboriginal people do not

comfortably engage with health care providers, and to identify and acknowledge the discrimination, access issues and inequalities experienced by Aboriginal people for many years.

The Justice Cluster is working to improve the delivery of Aboriginal cultural awareness training. This training will ensure that legal professionals are able to improve the way they work with Aboriginal clients and communities. This includes programs such as:

- Corrective Service NSW (CSNSW) Aboriginal Cultural Awareness Training (ACAT)
- Juvenile Justice's Aboriginal and Torres Strait Islander Cultural Respect Framework
- Cultural awareness training is a priority in the NSW Police Force's Aboriginal Strategic Direction (ASD) 2012-2017. The ASD includes Aboriginal Cultural Protocols and Practices and a Statement of Aboriginal Reconciliation.

Aboriginal Employment Strategy

The NSW Public Service Commission has put in place a sector wide Aboriginal Employment Strategy. This has been driven by the twin objectives of enabling the NSW public service to benefit from greater diversity, as well as opening up more opportunities for economic participation by Aboriginal people.

The Aboriginal Employment Strategy 2014–17 is a four year strategic plan that focuses on attracting and retaining Aboriginal staff at all levels, as well as supporting career development and progression. The key goal of the Strategy is to achieve a target of 1.8% for all salary bands, and ensure that this target results in Aboriginal people in senior roles, and not concentrated at lower bands as has been the experience in the past.

Building on this, the Premier of NSW has made the doubling of the number of Aboriginal people in senior leadership roles in the Government Sector a priority for the next ten years (along with seeing women account for 50 per cent of senior leadership roles). The Aboriginal Employment Strategy will be a key element in achieving this goal.

8. NSW Health initiatives to address the gap in health outcomes for Aboriginal people

NSW Health acknowledges the importance of having Aboriginal involvement in the development of service solutions for Aboriginal people affected by past removal practices. Partnerships between sectors and the development of a skilled Aboriginal mental health and drug and alcohol workforce are critical elements within NSW Health's response.

NSW Health's Aboriginal Health Impact Statement (AHIS) ensure that the health needs and interests of Aboriginal people are embedded into the development, implementation and evaluation of all NSW Health initiatives.

NSW Health strategic framework for Aboriginal health

NSW Health's strategic framework for Aboriginal health comprises NSW 2021, NSW State Health Plan and NSW Aboriginal Health Plan 2013-2023. The framework provides an immediate focus on a number of key priorities relating to both physical and mental health:

- Driving improved health system performance for Aboriginal people, families and communities.
- Embedding Aboriginal health perspectives and practice into priority initiatives, programs and investment to support improved health outcomes for Aboriginal populations.
- Strengthening partnerships with key stakeholders.
- Generating, communicating and disseminating the evidence about effectiveness in Aboriginal health.

Responding to family violence in Aboriginal communities

The NSW Health *Aboriginal Family Health Strategy* (AFHS) provides a framework for responding to family violence in Aboriginal communities within a culturally competent, family based context with a focus on healing. The AFHS will contribute to the provision of an integrated response based on collaboration between services. NSW Health has recently undertaken an evaluation of the AFHS. Feedback on the AFHS was consistently positive in relation to its overall effectiveness and appropriateness. The AFHS was felt to be culturally appropriate and relevant, due to its focus on family and local community needs, its acknowledgement of inter-generational trauma and the fact that it is delivered by Aboriginal workers.

Improvements to mental health services

In December 2014, the NSW Government announced a funding commitment of \$115 million over three years to enhance delivery of mental health services in NSW, with a focus on contemporary models of mental health care. The package recognises the priority needs of Aboriginal people, and will strengthen mental health promotion, prevention and early intervention for Aboriginal children and their families. Funding will also be directed to the continuing development of the Aboriginal mental health workforce.

9. Justice interventions to address overrepresentation of Aboriginal people in the criminal justice system

Aboriginal people continue to be overrepresented across the criminal justice system. The NSW Government is committed to implementing alternative approaches to responding to criminal justice issues amongst Aboriginal communities, including diversionary programs.

The *Young Offenders Act (1997)* (YOA) has an explicit goal to address the overrepresentation of Aboriginal and Torres Strait Islander children in the criminal justice system through the use of youth justice conferencing, cautions and warnings. While the YOA has resulted in a drop in Aboriginal young people receiving a custodial order, young Aboriginal people continue to be at a disadvantage when it comes to

accessing diversionary programs and continue to make up over 50% of young people in custody.

Corrective Services NSW (CSNSW) collaborates with other government and non-government agencies to reduce the incarceration and re-offending rates of Aboriginal people. CSNSW actively seeks the knowledge and expertise of Aboriginal community members to advise on strategies for enhancing program relevance and effectiveness, and to motivate Aboriginal offenders to engage with mainstream and specialist programs and services through CSNSW's Aboriginal Advisory Council.

Aboriginal Care Circles

The Aboriginal Care Circles model uses an Alternative Dispute Resolution (ADR) process to engage Aboriginal people in care proceedings before the Children's Court. It is an alternative avenue for care matters involving Aboriginal children and young people incorporating the participation of respected Elders and community members.

The purpose of a Care Circle is to implement an enhanced court process for care matters involving Aboriginal children in the New South Wales Children's Court. Care Circles encourage culturally appropriate decision making and care plans for Aboriginal children and young people.

Circle Sentencing

Circle Sentencing is an alternative sentencing court for adult Aboriginal offenders with the full sentencing powers of the court. Community members and the magistrate sit in a circle to discuss the offence and the offender. It can also involve victims, respected community members and the offender's family.

Aboriginal Community Justice Groups

Aboriginal Community Justice Groups (ACJGs) are community representative groups who come together to examine crime and offending behaviours within their communities. The groups work closely together with Police, Courts and Juvenile Justice. ACJGs are operating in Tamworth, Mt Druitt/Blacktown, Dubbo, Nowra, Toronto, Maclean/Yamba and Broken Hill. ACJGs are being re-established in Lismore, Armidale and Wollongong in 2015/16.

Juvenile Justice interventions into overrepresentation of Aboriginal young people

Juvenile Justice NSW (JJNSW) has been actively involved in the planning, implementation and trial of the Youth Koori Court. The court is currently being trialled at Parramatta Children's Court and soon to commence at Bidura Children's Court. The court provides greater Aboriginal involvement in the court process ensuring it is culturally relevant, reducing the risk factors that impact on re-offending behaviour and ultimately reducing the number of Aboriginal young people being sentenced to a period of detention.

JJNSW also has two Aboriginal specific programs to help address the overrepresentation of Aboriginal young people in the juvenile justice system:

- The Our Journey to Respect program aims to reduce the incidence of inter-generational violence. The overall aim of the program is to reduce the

incidence of family violence, particularly violence towards older family members.

- Dthina Yuwali is an Aboriginal-specific Alcohol and Other Drugs (AOD) program based on the relationship between substance use and pathways to offending. Dthina Yuwali is based on cultural learning and utilises learning circles, cultural representations of concepts to facilitate learning, and the use of Elders and respected community members throughout the program.

10. Aboriginal Trust Fund Repayment Scheme

In 2004, the NSW Government established the Aboriginal Trust Fund Repayment Scheme (ATFRS) to repay wages held in Trust by the Aboriginal Protection Board, and later the Aborigines Welfare Board (AWB). From the late 1890s up until 1969, the AWB collected monies from some Aboriginal people who came under their control and held this money in Trust Accounts. The AWB controlled these accounts and determined the amount of wages, endowments, pensions etc. that could be withdrawn or to be deposited in Trust. The ATFRS repaid money owed to Aboriginal people and their descendants, including members of the Stolen Generations.

The ATFRS was administered by the then Department of Community Services and was operational between December 2004 to June 2010. All claims were assessed and a total of \$12.9 million repaid with the Scheme now closed.

11. Improving standards of practice across Government in civil litigation

The NSW Government recognises that litigation by claimants seeking compensation for the consequences of past treatment or past policies can be a traumatic experience. In many cases, these processes involve highly vulnerable people with difficulty accessing the legal system.

The NSW Government has introduced measures which endeavour to remove some of the barriers to victims in seeking legal compensation. These changes also recognise that, where individuals pursue civil litigation claims against the Government, the Government has an obligation to maintain certain standards of practice and minimise the possibility of re-traumatising claimants.

Model Litigant Policy

On 8 July 2008, the NSW Government adopted a Model Litigant Policy for use by all government agencies. The Model Litigant Policy is designed to provide guidelines for best practice for government agencies in civil litigation matters. It is founded upon the concepts of behaving ethically, fairly and honestly to model best practice in litigation. The policy includes directions for the State to deal with claims promptly and consistently, avoid litigation where possible (including application of alternative dispute resolution services), and apologise where it is found that the State has acted inappropriately.

NSW Government Guiding Principles

The NSW Government introduced *Guiding Principles for Government Agencies*

responding to Civil Claims for Child Sexual Abuse on 3 November 2014. These 18 principles guide how NSW government agencies respond to civil claims for child sexual abuse, and are intended to make litigation a less traumatic experience for victims. Under the Principles, claims will be finalised as quickly as possible and agencies will be guided by the understanding that litigation can be a traumatic experience. State agencies will not generally raise the passage of time as a defence or reason not to allow a claim.

FACS policy on management of legal matters

FACS has implemented a best practice framework for the management of legal matters within the Department's administration. This framework includes mechanisms to ensure the Department follows the NSW Model Litigant Policy, and that people who bring claims against the Department are treated fairly and ethically.

FACS has developed a Policy Directive for Management of Legal Matters to guide the Department's approach to civil claims involving child abuse, including child sexual abuse, and to better support claimants through this process. The Policy Directive has been put in place in acknowledgement of the potential for litigation to be a traumatic experience for claimants who have suffered abuse as children. It also recognises improvements in how FACS has dealt with past claims. The Policy Directive gives effect to, and extends, the NSW Government's Guiding Principles.

Stolen Generations class action

In June 2014, the Crown Solicitor's Office was served with an unfiled Statement of Claim in representative proceedings (a class action) by Carroll & O'Dea Lawyers seeking damages from the State of NSW. Carroll & O'Dea advised that they were instructed to act on behalf of a number of members of the Stolen Generation.

The Group Members allege personal injuries as a consequence of forced removal from their families, false imprisonment and as a result of treatment received, including physical and sexual abuse.

The Crown Solicitors Office acts for the State of NSW. The legal process outlined above is pending, and it is not appropriate to provide further detail.