THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: IIC/EEvk:1633553

29 March 2019

Mr Jason Ardler
Chair
Stolen Generations Advisory Committee
Aboriginal Affairs NSW
Level 3, 35 Bridge Street
SYDNEY NSW 2000

By email: jason.ardler@aboriginalaffairs.nsw.gov.au

Dear Mr Ardler,

Unfinished Business – implementing report recommendations

The Law Society of NSW writes to the Stolen Generations Advisory Committee (SGAC) on two separate issues.

1. Recent amendments to the child protection and adoption legislation

The Law Society notes the passage of recent amendments to the *Children and Young Persons (Care and Protection) Act 1998* (NSW) and the *Adoption Act 2000* (NSW). For the information of the members of the SGAC, attached are submissions we made to the Minister for Family and Community Services (FACS), expressing our concerns about the amendments, particularly as they might affect Aboriginal and Torres Strait Islander children in the care and protection system. We also attach submissions made to FACS in respect of its newly established Guardianship Taskforce, seeking further information on its how it is seeking to implement its change of policy in respect of adoption. We have not received a response to the second submission.

We raise these issues to the attention of SGAC given that the Government has accepted the need to guard against repetition of the Stolen Generations, noting in particular Recommendation 31 of the Unfinished Business report that FACS should identify strategies to promote early intervention services and programs that aim to prevent Aboriginal children and young people being removed from their family.

The Law Society considers that the NSW Government's focus on adoption as the preferred route to permanency is inconsistent with its goal of guarding against repetition of the Stolen Generations. In our view, this position fails to understand the complexities surrounding adoption, particularly as it relates to Indigenous children in the care system.

THE LAW SOCIETY OF NEW SOUTH WALES
170 Phillip Street, Sydney NSW 2000, DX 362 Sydney T +61 2 9926 0333 F +61 2 9231 5809
ACN 000 000 699 ABN 98 696 304 966 www.lawsociety.com.au

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It is the Law Society's long-standing position that the best form of permanency is to support families to stay together.[1] Child protection services in NSW require a cultural change to provide adequate and effective investment in early intervention efforts to assist the parents and families of children at risk to address those risk factors. This requires specific and culturally competent services for Indigenous families. Programs such as the Newpin Social Benefit Bond, which has resulted in restoring more children to their families at a rate of 63% over four years compared to 19% for similar families not in the program, should be expanded and made more broadly available. We note that from a funding perspective, restoration is incentivised in that program.

Adoption is a very significant step in the life of any child and any family. The best interests of the child, and especially any group of siblings, should always be the primary consideration. Unfortunately, members of the Law Society's Indigenous Issues Committee have reported the ongoing practice of separating siblings from each other and the cutting of ties with birth families, with strongly detrimental effects on the wellbeing of the children and young people affected. The reality is that adoption is a strong disincentive to maintenance of birth family relationships. Except with the most dysfunctional families, this is a benefit to the child.

Regard should also be had to the struggles that come with adoption and the fact that adoptions do fail.

In our view, adoption is not a culturally appropriate option for Indigenous children in NSW. Indigenous children must be placed in accordance with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in s 13 of the *Children and Young Persons (Care and Protection) Act 1998* (NSW). In NSW there are strong examples of partnerships with Indigenous leadership that are keeping Indigenous children safe within their families, including early diversion of Indigenous children and families potentially at risk to the family law system when there is family breakdown, and a safe family member has been identified who is willing to care for the child. We strongly oppose any changes that would have the effect of undermining the rights to self-determination and a child's best interests, including his/her right to culture and family. We are of the view that FACS should, as a matter of policy, state that adoption is not a culturally appropriate option for Indigenous children. The Law Society notes the concerns expressed by Stolen Generations Organisations (SGOs) in respect of this legislation, and we support these concerns. <u>Attached</u> is a media statement issued by the SGOs on 13 November 2018, as well as a letter to the Premier from the SGOs.

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[1] This position is in line with the United Nations Convention on the Rights of the Child ("CRC"), which Australia is obliged to comply with, as a ratifying State Party. Article 9 of the CRC requires states to ensure that a child "shall not be separated from his or her parents against their will" unless competent authorities subject to judicial review determined that the separation "is necessary for the best interests of the child". Article 7 states that a child has "the right to know and be cared for by his or her parents" and Article 30 states that "a child... who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture". With regard to Article 30, the UN Committee on the Rights of the Child recommended in 2012 that Australia:

> Fully implement the Indigenous Child Placement Principle and intensify its cooperation with indigenous community leaders and communities to find suitable solutions for indigenous children in need of alternative care within indigenous families. (Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention – Concluding Observations: Australia*, 60th sess, UN Doc CRC/C/AUS/CO/4 (28 August 2012), paras [51] – [56]).

The Law Society would be grateful if these issues could be discussed more closely at an SGAC meeting, particularly with the Stolen Generations Organisations represented on the SGAC, with a view to raising these concerns further with the relevant Government departments and agencies if the SGAC think it appropriate to do so.

2. Eligibility of certain Stolen Generations survivors and descendants for reparations payments

From consultation with various stakeholders including members of SGOs, the Law Society understands that survivors who were removed by, committed to, or otherwise came into the care of the New South Wales Aborigines Protection Board (APB) or Aboriginal Welfare Board (AWB) are eligible for reparations payments. However, we understand that there continues to be some difficulty for survivors who were removed under the *Child Welfare Act 1939* (NSW) (and child welfare legislation preceding that Act) to access reparations payments. In our view, survivors removed by the Child Welfare Department (CWD) are also members of the Stolen Generations,[2] and it is consistent with the scope and purpose of the reparations scheme to treat those survivors in the same way as those removed by the APB or AWB.

We are aware that other stakeholders including Legal Aid NSW have raised this issue with the Department of Aboriginal Affairs, and that some progress has been made in this respect. However, we understand that a number of issues remain of concern, namely, that:

1. There continues to be a **lack of clear guidance on eligibility for financial reparations** from the Department of Aboriginal Affairs. In addition to the issue noted above in respect of the relevant removing agency, we are also aware of instances where siblings of Stolen Generations survivors, who were removed at the same time in the same circumstances, have been found ineligible. In other instances, some siblings of eligible direct descendants were found ineligible. In our view, the Department of Aboriginal Affairs should promulgate clear guidelines in respect of eligibility, noting that discretion may be necessary to achieve just outcomes.
2. **The eligibility of direct descendants to make claims where their eligible parent has passed.** We understand that direct descendants whose mother or father would be eligible for reparations but who have passed are not eligible under the scheme. That trauma can be intergenerational in nature is well-established. Most recently, the Australian Institute of Health and Welfare published its comprehensive report *Aboriginal and Torres Strait Islander Stolen Generations and descendants: numbers, demographic characteristics and selected outcomes*[3] which demonstrated that descendants were "also consistently more likely to have experienced adverse outcomes over a broad range of health, socioeconomic and cultural indicators, compared with a reference group of Indigenous people aged 18 and over who reported neither being removed themselves from their own families, nor having any relatives removed." This includes being almost

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[2] We note that Peter Read's Stolen Generations pamphlet, prepared for the then NSW Ministry for Aboriginal Affairs as part of the then NSW Department of Youth and Community Services' funded Aboriginal Children's Research Project (1981-1982) (Peter Read, *The Stolen Generations: The removal of Aboriginal children in New South Wales 1883 to 1969,* Sixth reprint (2007), first published 1981, online: https://www.aboriginalaffairs.nsw.gov.au/pdfs/research-and-evaluation/Stolen_Generations.pdf, the *Bringing Them Home* report and the Unfinished Business report all state that the AWB/APB worked together with the Child Welfare Department to remove and place Indigenous children (*Bringing them home report*, 41; *Unfinished business report* at [2.22].).

[3] AIHW, *Aboriginal and Torres Strait Islander Stolen Generations and descendants: numbers, demographic characteristics and selected outcomes,* (2018), online: https://www.aihw.gov.au/reports/indigenous-australians/stolen-generations-descendants/contents/overview

twice as likely to have experienced actual or threatened physical violence, being more than one and a half times more likely to experience poor health on a composite measure, and being arrested at a rate of one and a half times more in the last five years. The Law Society supports the view of Kinchela Boys Home Aboriginal Corporation there is a need for a specific reparations scheme for the children of Stolen Generations survivors.
3. The **cut-off date** is applied strictly and without discretion.
4. There are **significant delays and lack of process around providing timeframes** for processing claims.
5. The implementation of the **broader healing initiatives continue to be delayed**.

It is beyond contention that the individuals affected have already suffered a great deal as a result of state action. In the interests of finally achieving a small measure of justice for survivors (and their descendants), the Law Society urges an implementation approach to reparations that is flexible, allows the necessary discretion and urgency in order to address the issues raised above.

Thank you for your consideration of these matters. Any questions may be directed at first instance to Vicky Kuek, Principal Policy Lawyer, at victoria.kuek@lawsociety.com.au or 9926 0354.

Yours sincerely,

Elizabeth Espinosa
President

Encl.

THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: IIC/CLIC/DHvk:1608683

9 November 2018

The Hon Pru Goward MP
Minister for Family and Community Services
GPO Box 5341
SYDNEY NSW 2001

By email: office@goward.minister.nsw.gov.au

Dear Minister,

Children and Young Persons (Care and Protection) Amendment Bill 2018

The Law Society of NSW, on balance, opposes the passage of the Children and Young Persons (Care and Protection) Amendment Bill 2018 ("Bill"). The Bill proposes substantial changes to the child protection system in NSW, yet key stakeholders, including Aboriginal community organisations and Stolen Generations organisations, have not had the opportunity to review or comment on the Bill. Given the significant time constraints, the Law Society sets out its concerns in brief below, together with recommendations. In the Law Society's view, the Bill should not pass, primarily because it appears to be underpinned by the view that adoption should be the preferred policy for permanency. In our view, this position fails to understand the complexities surrounding adoption, particularly as it relates to Indigenous children in the care system. If the Bill passes, we submit that the amendments below should be made.

1. Summary of the Law Society's views and recommendations

1) **Facilitate public consultation on the provisions of the Bill:** The Bill should be referred to an inquiry.
2) **We oppose the maximum two year time limit for restoration:** Clauses 20, 25 and 27 of Schedule 1 should be removed, or should be amended to exclude Indigenous children.
3) **We oppose guardianship orders by consent, and dispensing with parental consent where adoption is sought by the child's current guardian:** Clauses 13 and 14 of Schedule 1, and all clauses in Schedule 2, should be removed, or should be amended to (1) exclude Indigenous children; and (2) state that each party other than the Secretary should be provided with "independent legal advice, and in the case of Indigenous parties, advice that is culturally competent".
4) **We oppose additional limitations on applications to vary or dispense with care and protection orders:** Section 90 of the *Children and Young Persons (Care and Protection) Act 1998* (NSW) should remain unchanged. At the very least:
   a. the factors set out in subclauses 29(2A) and (2B) should be given equal weight.
   b. the reference to the stability of present care arrangements in subclauses 29(2B)(b) and 32(c) should be removed.
5) **We support the requirement for ADR processes, but they must be supported by the provision of independent legal assistance:** Clause 12, Schedule 1 should be amended to require the provision of independent legal assistance to the family of a child or young person at risk of significant harm. In the case of Indigenous parties, the legal advice provided must be culturally competent

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2. Public scrutiny of the Bill

The Law Society is deeply concerned about the lack of opportunity for public scrutiny of the Bill. We note that although the Government carried out community consultations on broad proposals in October 2017, the report on the outcome of consultations was not made available until the day the Bill was introduced. Some of the proposals in the Bill were opposed in this consultation process, and some were not included in the consultation process at all. We note that a number of Aboriginal community organisations, including a Stolen Generations Organisation, have expressed deep concerns about the Bill's potential to repeat the mistakes of the past.

Recommendation 1:

The Bill should be referred to a NSW Parliamentary committee for inquiry, to allow for adequate public engagement and scrutiny of what appear to be significant reforms of the care and protection system.

3. Substantive concerns

It is the Law Society's long-standing position that the best form of permanency is to support families to stay together.[1] Child protection services in NSW require a cultural change to provide adequate and effective investment in early intervention efforts to assist the parents and families of children at risk to address those risk factors. This requires specific and culturally competent services for Indigenous families. Programs such as the Newpin Social Benefit Bond, which has resulted in restoring more children to their families at a rate of 63% over four years compared to 19% for similar families not in the program, should be expanded and made more broadly available. We note that from a funding perspective, restoration is incentivised in that program.

However, it appears that the rationale underlying the Bill is that adoption is the preferred permanency solution. Adoption is a very significant step in the life of any child and any family. The best interests of the child, and especially any group of siblings, should always be the primary consideration. Unfortunately, we continue to see the devastating effects of separating siblings from each other and the cutting of ties with birth families. The reality is that adoption is a strong disincentive to maintenance of birth family relationships. Except with the most dysfunctional families, this is a benefit to the child.

Regard should also be had to the struggles that come with adoption and the fact that adoptions do fail. They are not as straightforward as some would like to believe.

In our view, adoption is not a culturally appropriate option for Indigenous children in NSW. Indigenous children must be placed in accordance with the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles in s 13 of the *Children and Young Persons (Care*

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[1] This position is in line with the United Nations Convention on the Rights of the Child ("CRC"), which Australia is obliged to comply with, as a ratifying State Party. Article 9 of the CRC requires states to ensure that a child "shall not be separated from his or her parents against their will" unless competent authorities subject to judicial review determined that the separation "is necessary for the best interests of the child". Article 7 states that a child has "the right to know and be cared for by his or her parents" and Article 30 states that "a child... who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture". With regard to Article 30, the UN Committee on the Rights of the Child recommended in 2012 that Australia:

> Fully implement the Indigenous Child Placement Principle and intensify its cooperation with indigenous community leaders and communities to find suitable solutions for indigenous children in need of alternative care within indigenous families. (Committee on the Rights of the Child, *Consideration of reports submitted by States parties under article 44 of the Convention – Concluding Observations: Australia*, 60th sess, UN Doc CRC/C/AUS/CO/4 (28 August 2012), paras [51] – [56]).

and Protection) Act 1998 (NSW) ("Care Act"). In NSW there are strong examples of partnerships with Indigenous leadership that are keeping Indigenous children safe within their families, including early diversion of Indigenous children and families potentially at risk to the family law system when there is family breakdown, and a safe family member has been identified who is willing to care for the child. We strongly oppose any changes that would have the effect of undermining the rights to self-determination and a child's best interests, including his/her right to culture and family. We understand that previous FACS policy acknowledging that adoption is not a culturally appropriate option for Indigenous children is no longer current, and we are of the view that it should be reintstated.

We oppose the following specific provisions of the Bill:

3.1. Two year time maximum time limit for restoration

From a rule of law perspective, these provisions are concerning as they limit the discretion of the court in relation to restoration time limits, and limit the court's discretion to consider each matter on a case by case basis. We also oppose the provision proposing to interfere with judicial decision-making by requiring the court to make a determination regarding the Secretary's assessment of whether "there is a realistic possibility of restoration with a reasonable period."

The Law Society notes also that the two year maximum time limit may in fact set families up to fail, given the significant wait lists for access to services including rehabilitation, public housing and other social support services. In our view, rather than setting an arbitrary time limit on restoration, the current legislation should be amended to impose a positive burden on FACS to exercise best efforts to support each child's restoration on a case by case basis. FACS should be resourced appropriately to meet this obligation.

Recommendation 2:

a. Clauses 20, 25 and 27 of Schedule 1, should be removed, or they should be amended to exclude Indigenous children.

b. An amendment be made to impose a positive burden on FACS to exercise best efforts to support each child's restoration on a case by case basis.

3.2. Guardianship orders by consent, and dispensing with parental consent where adoption is sought by the child's guardian

While the child's safety and best interests are of course paramount, these provisions would allow the court to make a guardianship order with the parent's consent, even where there is no finding that a child is at risk of significant harm or should be subject to a care and protection order. We echo the concerns of Community Legal Centres NSW that this provision, taken together with the provision allowing the Supreme Court to dispense with parental consent where a guardian seeks adoption of the child, create a fast-tracked pathway to adoption without adequate safeguards for parents and families.

Recommendation 3:

Clauses 13 and 14 of Schedule 1 (and any other consequential provisions including clauses 1 and 19), and all clauses of Schedule 2, should be removed, or should be amended to (1) exclude Indigenous children; and (2) state that each party other than the Secretary should be provided with "independent legal advice, and in the case of Indigenous parties, advice that is culturally competent".

3.3. Additional limitations on applications to vary or dispense with care and protection orders

In the Law Society's view, section 90 applications are already a very difficult process. We note that in its report on the October 2017 consultations, FACS notes that most submissions were opposed to limiting the circumstances in which s 90 applications can be made, given that they already represent a very high bar. Despite this, the NSW Government recommended further limitations on parties' ability to apply to vary or dispense with current care orders. We note that the Government has not made a case for requiring the court to consider the stability of present care arrangements, and note also that the court already has the power to dismiss unmeritorious applications.

> **Recommendation 4:**
>
> Section 90 of the Care Act should remain unchanged. At the very least:
>
> a. the factors set out in subclauses 29(2A) and (2B) should be given equal weight.
> b. the reference to the stability of present care arrangements in subclauses 29(2B)(b) and 32(c) should be removed.

3.4. ADR processes must be supported by guaranteed access to free, independent and culturally competent legal assistance

While the Law Society supports the provisions requiring FACS to engage families in ADR before seeking care and protection orders, this process must be a meaningful one. Given that most families in this situation are unlikely to be well-resourced, the legislation should require that independent legal assistance be provided. In respect of Indigenous families in particular, the Law Society's long-standing position is that in order to be effective, legal assistance will require culturally competent legal advisers, supported by Aboriginal community and therapeutic workers.

> **Recommendation 5:**
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> Clause 12 of Schedule 1 should be amended to require the provision of independent legal assistance to the family of a child or young person at risk of significant harm and in the case of Indigenous parties, the legal advice provided must be culturally competent.

If it assists, the Law Society would be pleased to provide further detail. Questions at first instance may be directed to Vicky Kuek, Principal Policy Lawyer, available at (02) 9926 0354 or victoria.kuek@lawsociety.com.au.

Yours sincerely,

Doug Humphreys OAM
President

CC:
- Shadow Minister for FACS
- Minister for Aboriginal Affairs
- Shadow Minister for Aboriginal Affairs
- Attorney General
- Shadow Attorney General
- David Shoebridge MLC
- Fred Nile MLC
- Paul Green MLC
- Robert Borsak MLC
- Robert Brown MLC
- Trevor Khan MLC
- Shaoquett Moselmane MLC

7 November 2018

Dear Premier,

The Stolen Generations Organisations (SGO) Representatives of the Stolen Generations Advisory Committee, reject the NSW legislation proposal by FACS to open the pathway to forced adoption, limit the time for restoration and the changes to section 90 proposed under the Care and Protection Ammendment Bill 2018.

Forced adoptions and legislation enacted by the NSW governemnt to remove Aboriginal children are a tragic part of our own histories that created personal distress and trauma to us, our parents, our children and communities.

Within the reparations framework enabled by the 'Unfinished Business Report', there was a committment by the NSW Government to prevent repetition of harm perpetrated in the past. Unfortunately these proposed legislative changes do not honour this committment.

To truely be trauma informed there must be a committment to do no more harm. These legislative changes in our experience will harm us, our children, grandchildren and great grandchildren into the future.

We remind the NSW Government that there are still Stolen Generations survivors overseas who have not returned as a result of forced adoptions.

We committed to be part of the Stolen Generations Advisory Committee to create change to prevent ongoing repetition of harm to our children.

The NSW Government committed to reviewing their committment to Aboriginal children through commissioning a review Family is Culture by Professor Megan Davis and have requested recommendations from her to guide them into the future. We cannot understand why this legislation is being considered prior to this review being completed and the recommendations considered.

We should be authentically recognised as an advisory body to the NSW Government and given that we have not been consulted nor advised by the department of these proposed legislative change and find this disappointing and feel that we are being treated as tokenistic. FACS have committed to a 2 day meeting to meet with us and hear our views and work with us on a better future for us and our children, any legislation that will impact on us and our decendants should be stopped until after this meeting to ensure proper engagement and respect.

We urgently request a consultation and meeting to raise our concerns and stop the proposed ammendments to the current legislation proceeding to ensure distress in the past does not proceed into the future.

Sincerely,

Cootamundra Girls Home Aboriginal Corporation

Kinchela Boys Aborignal Corporation

Children of Bomaderry Aboriginal Children's Home Organisation

Stolen Generations Council NSW/ACT

7 November 2018

MEDIA RELEASE
13 November 2018

STOLEN GENERATIONS ORGANISATIONS OPPOSE FORCED ADOPTIONS IN NSW

Stolen Generations Organisations reject the proposed *Children and Young Persons (Care and Protection) Amendment Bill 2018.* In a recent letter to the Premier, representatives of Cootamundra Girls Home Aboriginal Corporation, Kinchela Boys Aboriginal Corporation, Children of Bomaderry Aboriginal Children's Home Association and the Stolen Generations Council NSW/ACT called for the proposed changes to be abandoned, and for an urgent consultation with Stolen Generations survivors about changes to contemporary child protection systems.

The group, as members of the Stolen Generations Advisory Committee advising the government in implementing the recommendations of the recent inquiry into reparations for the Stolen Generations, specifically raise concerns about amendments that will open the pathway to forced adoption, impose arbitrary timeframes on families being restored, and changes that will further marginalise families from seeking to have orders varied or rescinded.

"The Government's 'Unfinished Business' report acknowledged the long-term impacts of forced removals on Aboriginal peoples, not just for Stolen Generations survivors but our descendants and communities" said Uncle Michael Welsh, Kinchela Boys Home Survivor and Kinchela Boys Home Aboriginal Corporation Treasurer and Stolen Generations Advisory Committee member. "A key theme was guarding against repetition – our members and communities clearly see these regressive changes that increase the likelihood that Aboriginal children will be permanently removed from their families and communities as a failure to live up to that promise."

The letter further notes the ongoing Family is Culture Independent Review of Aboriginal Children and Young People in Out-of-Home Care in NSW, chaired by Prof Megan Davis, due for release next year, which may make significant recommendations about how legislative and other frameworks could be strengthened to improve outcomes for Aboriginal children and young people. It calls on the Premier to listen to the voices of Aboriginal people, including engaging directly with the Stolen Generations Advisory Committee and awaiting the recommendations from Prof Megan Davis.

"We have agreed to join with this government as the Stolen Generations Advisory Committee to progress healing for Stolen Generations survivors and their descendants, who are still feeling the impacts of past practices of forced removals and the lack of meaningful oversight" Aunty Christine Blakeney, survivor of Bomaderry Children's Home and Chairperson of the Children of Bomaderry Aboriginal Children's Home Organisation said. "And yet we see the government rushing through drastic changes without engaging with Aboriginal communities or Stolen Generations survivors at all; those who know the impacts of these systems better than anyone. Aboriginal people, including Stolen Generations survivors, need to be respected in these systems, not simply in a tokenistic way."

Stolen Generations Organisations have long advocated for recognition of Aboriginal peoples right to self determination and the importance of Aboriginal community-led child and family services that are tailored to the needs of Aboriginal families. "Our families need healing, not further harm" said Aunty Fay Moseley, Cootamundra Girls Home survivor and Chairperson of Cootamundra Girls Home Aboriginal Corporation. "Our families need targeted supports to overcome the wounds inflicted by the policies that forcibly removed me and my sisters and brothers from our families and communities."

"Changes should guarantee the safeguards recommended in Bringing Them Home all those years ago, to further safeguard our children's rights as Aboriginal children" Aunty Matilda House, Parramatta Girls Home survivor and Chairperson of the Stolen Generations Council NSW/ACT said. "We want government to allow us the right to restore our family structures, not further destroy them".

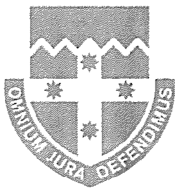
MEDIA CONTACTS

Uncle Michael Welsh, Kinchela Boys Home Aboriginal Corporation: 0477 747 227

Aunty Christine Blakeney, Children of Bomaderry Aboriginal Children's Home Organisation 0403 643 878

Aunty Matilda House, Stolen Generations Council NSW / ACT: 0426 974 492

Aunty Faye Moseley, Cootamundra Girls Home Aboriginal Corporation: 0413 063 032



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: IIC/EEvk:1633552

6 February 2019

Michael Coutts-Trotter
Secretary
Department of Family and Community Services
Locked Bag 10
STRAWBERRY HILLS NSW 2012

Dear Mr Coutts-Trotter,

Guardianship taskforce

The Law Society of NSW refers to the attached media release dated 2 November 2018 announcing the establishment of a Guardianship Taskforce, which is reviewing the cases of more than 7500 children in out-of-home care to determine which children might benefit from guardianship. This correspondence is informed by the Law Society's Indigenous Issues Committee and is supported by its Children's Legal Issues Committee.

Given the recent amendments to the *Children and Young Persons (Care and Protection) Act 1998* (NSW) and the *Adoption Act 2000* (NSW) removing certain safeguards in respect of the adoption of children on guardianship orders, we would be grateful for more information about this Taskforce and its work, including in respect of the following:

1. composition of the Taskforce, including whether any Aboriginal people are involved in the decision making and assessment processes;
2. criteria used by the Taskforce to assess suitability for guardianship;
3. how many children so far assessed as suitable for guardianship are Aboriginal, and the process undertaken to identify Aboriginality;
4. the process that follows once children are assessed as suitable for guardianship,
5. what particular protocols apply in relation to Aboriginal children throughout this process;
6. whether proposed guardians and family members are being directed to legal advice;
7. whether children are being directed to legal advice;
8. whether children will lose their entitlements (in particular medical and dental entitlements, scholarships and access to free TAFE courses); and
9. whether the Taskforce is open to receiving submissions from interested stakeholders.

Thank you in advance. If your office has any questions, at first instance please contact Vicky Kuek, Principal Policy Lawyer, on victoria.kuek@lawsociety.com.au or 9926 0354.

Yours sincerely,

Elizabeth Espinosa
President

Pru Goward
Minister for Family and Community Services
Minister for Social Housing
Minister for the Prevention of Domestic Violence and Sexual Assault

MEDIA RELEASE

Friday, 2 November 2018

GUARDIANSHIP TASKFORCE: FOREVER HOMES FOR CHILDREN IN FOSTER CARE

A special taskforce to promote guardianship as a permanent home for children in foster care is changing the lives of vulnerable children and young people who can no longer live safely with their parents.

Minister for Family and Community Services Pru Goward said the Guardianship Taskforce is reviewing the cases of more than 7500 children in out-of-home care to see who can benefit from guardianship.

"We know that children in out-of-home care need safety, security and permanency – they need a forever home," Ms Goward said.

"Guardianship orders can be a great way to achieve this.

"An order of guardianship is an important moment in a child's life because the child is no longer considered to be in out-of-home care but in the independent care of their guardian."

The NSW Government recently announced landmark reforms to the child protection system which will streamline the court process for guardianship, ensuring children have permanency sooner.

Guardianship is an alternative order to out-of-home care, which is made by the Children's Court when it is deemed to be in the best interest of the child.

Guardianship orders support children to maintain connections with family, community and culture. The majority of Guardianship orders are with relatives.

Since changing the Care and Protection Act in 2014, more than 2800 children and young people have transitioned to guardianship orders in NSW.

To find out more about guardianship, visit www.myforeverfamily.org.au/guardianship

MEDIA: Benjamin Flores 0428 577 285