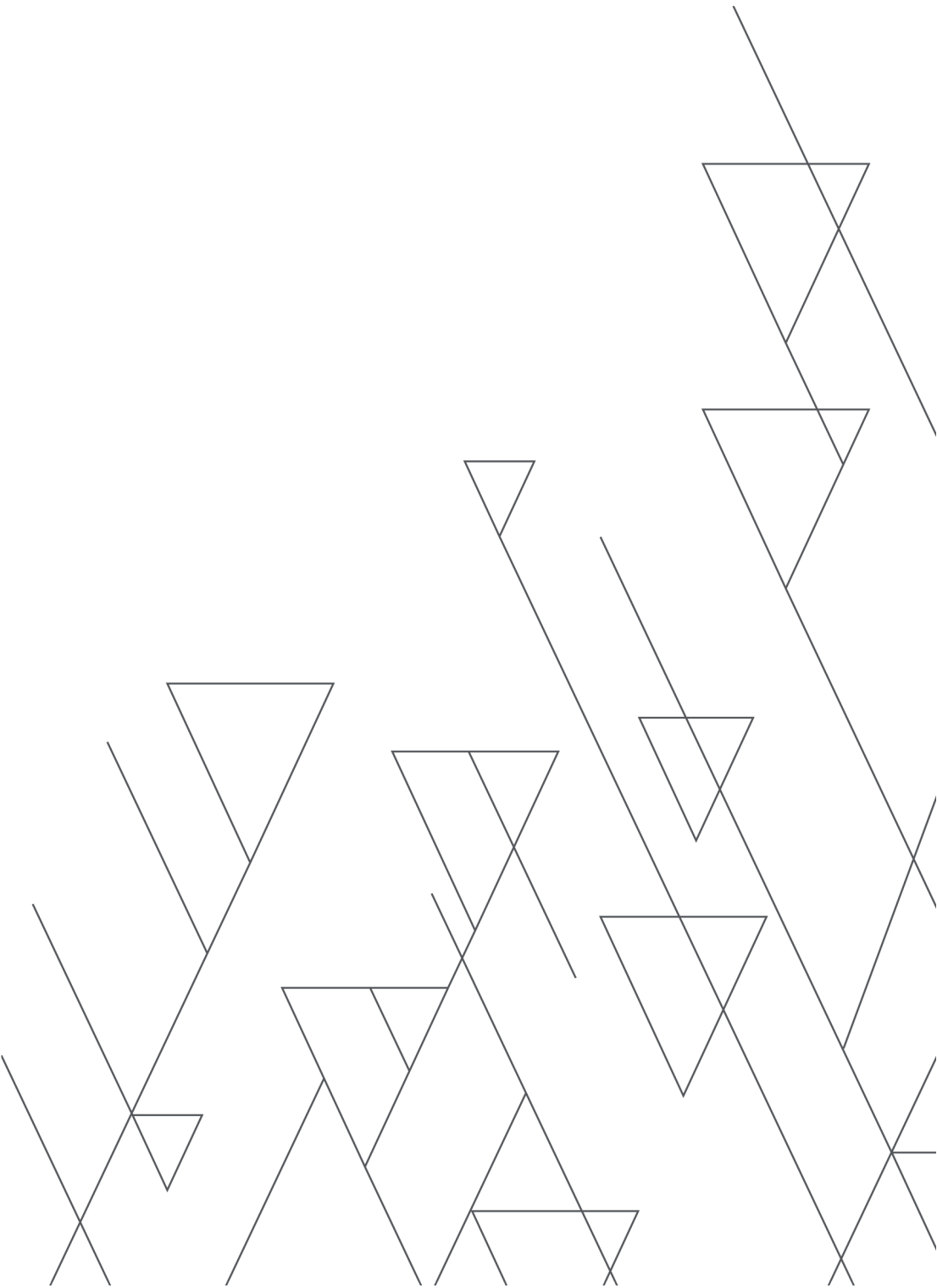


# Stolen Generations Reparations Package

## Package Guidelines

19 August 2024



Justice  
and Community  
Safety



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## Guidelines

### 1. About these guidelines

- 1.1. These Guidelines outline the process for how you can apply for the Stolen Generations Reparations Package (the Package) and how we will assess your application.
- 1.2. These Guidelines are not binding on the Department of Justice and Community Safety (we or the Department) or the Independent Assessment Panel (the Panel). The Department and the Panel may depart from these Guidelines if satisfied that it is in the interests of justice and equity to do so. We reserve the right to amend these Guidelines from time to time as we consider necessary.
- 1.3. Words and expressions used in these Guidelines have the meanings given to them in the Definitions in Section 8.
- 1.4. If you have questions about these Guidelines and what they mean for you, you can find out more by ringing 1800 566 071 or emailing [stolen.generations@justice.vic.gov.au](mailto:stolen.generations@justice.vic.gov.au).

### What is the Package?

- 1.5. The Victorian Government (Government) was directly involved in overseeing Aboriginal child removals and adoptions. The forcible removal of Aboriginal children has had devastating and long-lasting effects on the Stolen Generations, their families and their descendants.
- 1.6. In March 2020, the Victorian Government announced a commitment to Stolen Generations Reparations.
- 1.7. In December 2020, a Stolen Generations Reparations Steering Committee (Steering Committee) was established to begin the Package design process. The Steering Committee oversaw consultations with Stolen Generations people across Victoria in early 2021 about the design of Stolen Generations Reparations in Victoria. Based on this consultation, the Steering Committee developed a report (Final Report) to Government setting out recommendations on the design of the Package.
- 1.8. In January 2022, the Stolen Generations Reparations Advisory Committee (Advisory Committee), which comprises Stolen Generations people and their families, was established. The Advisory Committee advises Government on the implementation and operation of the Package including contributing to the development of these Guidelines.
- 1.9. On 3 March 2022, the Victorian Government announced the design of the Package. The Package commenced on 31 March 2022 and operates for five years. The closing date for applications will be 31 March 2027. Successful Applicants will be able to access supports provided as part of their Package until June 2027.
- 1.10. If you are found eligible for the Package, you can choose to receive a \$100,000 reparations payment. This component of the Package is a financial acknowledgement of the suffering you experienced due to separation from family community, culture and Country, resulting in the loss of identity and sense of belonging. The Victorian

Government acknowledges that no amount of financial reparations can alleviate the pain that was inflicted on the Stolen Generations. If found eligible, you will also be able to choose from restorative reparations, including an apology, healing services and access to your records.

### Guiding Principles

1.11. In interpreting these Guidelines and administering the Package, we and the Panel will have regard to the Guiding Principles recommended by the Steering Committee, alongside the eligibility requirements outlined in these Guidelines:

1.1.1. **Guiding Principle 1:** The Package is to be made available to living Stolen Generations based on the principle of separation from family in Victoria, which:

- a) is inclusive and considers both the state policy and wider societal practice of assimilation and separation of Aboriginal children from family, community, culture and Country
- b) does not differentiate between the type of removal, such as forced, coerced or relinquishment by either government or non-government organisations, or the consequence of removal, such as legal or informal foster care, adoption or institutionalisation **and**
- c) is to be used alongside the Eligibility Criteria for the Package (see paragraphs 2.1 and 2.2).

1.1.2. **Guiding Principle 2:** The Reparations process will provide a supported, accessible, transparent and trauma-informed service.

### Who administers the Package?

1.12. The Package is administered by the Department.

1.13. Decisions on whether an Applicant has met the eligibility for the Package will be made by the Panel (see Section 4). Details on the Panel's operation are outlined in Schedule B.

## 2. Applying to the Package

### Eligibility Criteria

2.1. You are eligible to receive a Package if you:

- 2.1.1. are an Aboriginal and/or Torres Strait Islander person
- 2.1.2. were first removed from your family by a government or non-government agency before 31 December 1976, while under the age of 18 years<sup>1</sup>
- 2.1.3. were first removed in Victoria
- 2.1.4. were separated from your family for a period of time that resulted in the experience of loss of family, community, culture, identity and language

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<sup>1</sup> Removal from your family for the purposes of this Package does not include removal for the sole purpose of incarceration or custody, or for reasons solely unconnected with policies and practices resulting in the Stolen Generations.

- 2.1.5. are living at the time of lodging your Application Form, and have lodged a valid application with all necessary supporting identification documents **and**
- 2.1.6. have followed the process in these Guidelines to make an application.
- 2.2. To avoid any doubt, if you are otherwise eligible to the Package, you will still be eligible if:
  - 2.2.1. you were adopted, including if your parents signed a consent to adopt form
  - 2.2.2. you have previously received payment for abuse due to separation from family, such as a civil litigation payment or a National Redress Scheme payment
  - 2.2.3. you have previously received reparations under a Stolen Generations redress scheme in another state or territory<sup>2</sup> **or**
  - 2.2.4. you are incarcerated.

### How you can apply to the Package

- 2.3. To apply for the Package, you must fill in an Application Form by:
  - 2.3.1. completing the online form at [www.vic.gov.au/stolen-generations-reparations-package](http://www.vic.gov.au/stolen-generations-reparations-package)
  - 2.3.2. downloading a copy from the website at [www.vic.gov.au/stolen-generations-reparations-package](http://www.vic.gov.au/stolen-generations-reparations-package)
  - 2.3.3. emailing [stolen.generations@justice.vic.gov.au](mailto:stolen.generations@justice.vic.gov.au) **or**
  - 2.3.4. ringing 1800 566 071 to request that an Application Form be sent to you.
- 2.4. There are instructions on the Application Form explaining the various ways you can submit it.
- 2.5. Making an application is free of charge.
- 2.6. Support is available to help you apply. You can find out more by ringing 1800 566 071 or emailing [stolen.generations@justice.vic.gov.au](mailto:stolen.generations@justice.vic.gov.au).
- 2.7. If you wish, you can also be supported through this process by family or a support person, for example, a local Aboriginal Community Controlled Organisation (see paragraph 2.9).

### You will have access to Support Services

- 2.8. To help you complete your application and navigate this process, we will support your access to:
  - 2.8.1. trauma informed counselling
  - 2.8.2. legal advice
  - 2.8.3. financial counselling
  - 2.8.4. disability support services

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<sup>2</sup> Applying or being found eligible for the Package does not prevent you from seeking reparations or compensation through other avenues, such as the National Redress Scheme, a Stolen Generation redress scheme in another state or territory, or civil litigation.

- 2.9. The Department does not provide funding for legal fees to lodge an application for the Package. The application is designed to be lodged without legal advice. If you would like support to lodge your application, you can seek support from a Bringing Them Home Worker, Connecting Home, Link-Up or by contacting the Department.
- 2.10. You can choose your own provider or we can recommend a provider to you. Providers must be based in Australia and recognised and licensed to deliver the service they are engaged for.
- 2.11. We will fund these services to the values set in Schedule A. We may pay your provider directly or you may seek reimbursement from us. Contact us for further information.
- 2.12. We will only fund services related to your application.

### **In some situations, someone else can act on your behalf to progress your application**

#### **Nominating someone to assist with your application**

- 2.13. You can give permission for a person or organisation to speak to us about your application, or to fill out (but not sign) an Application Form for you. If you appoint a person, they are referred to as a Nominated Support Person. If you appoint an organisation, they are referred to as a Nominated Organisation.
- 2.14. A Nominated Support Person must be at least 18 years old.
- 2.15. A Nominated Support Person can:
  - 2.14.1. provide us with information about your application and receive information, including personal information, about your application from us **and**
  - 2.14.2. submit an initial application on your behalf, but it must be signed by you.
- 2.16. If you appoint an organisation, any person at that organisation can perform the tasks of a Nominated Support Person.
- 2.17. If you provide us with the name of a preferred contact person at the Authorised Organisation (for example, your support worker), we will speak to that person unless they are no longer working for the Nominated Organisation or they are on leave and it would unreasonably delay your application for us to wait for their return.

**Please note:** If you appoint a Nominated Support Person who is your worker and they leave their role, you will need to submit a form appointing a new Nominated Support Person. If you appoint a Nominated Organisation and your worker leaves the organisation, another person at the organisation can speak to us about your application.

- 2.18. A Nominated Support Person and a Nominated Organisation cannot:
  - 2.18.1. sign the Application Form; this must be signed by you.
  - 2.18.2. make decisions about your application, including the content of your Package, withdrawing an application, or signing on your behalf. These decisions need to be made by you.
  - 2.18.3. receive payments made by the Package.

- 2.19. You can make a person your Nominated Support Person or Nominated Organisation by completing *Form Two: Nomination of a Support Person or Organisation*, which is available on our website or by requesting a copy directly from us. You must sign *Form Two* and have your signature witnessed by someone who is not your Nominated Support Person or a person from your Authorised Organisation.
- 2.20. If someone has submitted an Application Form on your behalf, we will not be able to provide information to them or progress the processing of an application without the completed *Form Two*.
- 2.21. You can withdraw or change your Nominated Support Person or Nominated Organisation at any time by contacting us.
- 2.22. If we become aware that you have lost mental capacity to make decisions about your application during the application process, or that you have passed away during the application process, your Nominated Support Person or Nominated Organisation will no longer have the authority to act on your behalf.

**Please note:** If you have lost mental capacity, a person who has been appointed your guardian or administrator, or has been granted a legal power of attorney, may have the authority to act on your behalf. If you are deceased, the Department may speak to your next of kin (see paragraphs 2.26 to 2.34).

### Legal guardianship or power of attorney

- 2.23. If a person has been appointed your legal guardian or administrator by the Victorian Civil and Administrative Tribunal, or has been granted a legal power of attorney to act on your behalf, they may be able to act on your behalf in relation to your application, including:
  - 2.23.1. making or withdrawing your application
  - 2.23.2. sharing and receiving information about your application
  - 2.23.3. making decisions about your application or
  - 2.23.4. receiving payments for the Package on your behalf.
- 2.24. To do this, the person described in paragraph 2.23 must provide us with satisfactory evidence that they have these legal powers. This means that a person who has been appointed your legal guardian or administrator must provide us with a certified copy of the order appointing them, and a person who has been granted a legal power of attorney must provide us with a certified copy of the executed power of attorney. We cannot give someone these powers; they must obtain these powers through existing processes.

**Please note:** If the Victorian Civil and Administrative Tribunal has made an order appointing a person to be your legal guardian or administrator, the Department is required to comply with that order.
- 2.25. The legal guardian, administrator, or attorney will be able to access the legal advice and financial counselling services available to you in relation to your application (see paragraph 2.8).



### In the event of death during the application process

- 2.26. In your Application Form, you must nominate a person to be your next of kin for the purposes of your application, and state whether you want your next of kin to be paid your financial reparations payment of \$100,000 if you pass away during the application process.
- 2.27. If you wish to nominate more than one next of kin, please tell us how you would like the reparations payment to be divided between them.
- 2.28. If we become aware that you have passed away, we will be in contact with your next of kin to discuss the next steps in relation to the application. Your next of kin can also contact us by ringing 1800 566 071 or emailing [stolen.generations@justice.vic.gov.au](mailto:stolen.generations@justice.vic.gov.au). You should inform your next of kin that, if you pass away during the application process, your next of kin should contact us to make us aware that you have passed away. We will require a copy of your death certificate before we can take any further steps in relation to your application.
- 2.29. If you pass away after you have lodged a valid application with all necessary supporting identification documents and have followed the process in the Guidelines to make an application, we (and the Panel) will continue to deal with your application as if you had not passed away. For any matter about which we would have written or spoken to you when dealing with your application, we will instead seek to deal with your next of kin, unless we consider in our absolute discretion there is another person who it is appropriate for us to deal with. By submitting your Application Form, you consent to the use and disclosure of information provided in your application for that purpose.
- 2.30. If the Panel decides you are eligible for the Package, and you pass away before receiving your financial reparations payment, we will determine who should be paid your financial reparations payment and will pay your financial reparations payment to that person as soon as practicable.
- 2.31. In determining who should be paid your financial reparations payment, we will consider:
- 2.31.1. the person you have nominated as your next of kin, if you have stated in your Application Form that you want your next of kin to be paid your financial reparations payment if you pass away during the application process; and
  - 2.31.2. the people who are entitled to your property under your will (if you have one) or the laws relating to the distribution of the property of people who have died without a will (intestacy).
- 2.32. Where you have stated in your Application Form that you wish your next of kin to be paid your financial reparations payment if you pass away during the application process, we will pay your financial reparations payment to your next of kin unless we consider in our absolute discretion that it is in the interests of justice and equity not to do so.
- 2.33. In order to determine who should be paid your financial reparations payment, we may ask your next of kin, Nominated Support Person or Organisation, person who assisted you with your application, the people who are entitled to your property under your will or the laws relating to intestacy, and/or any other person the Department considers appropriate

to produce a grant of probate of your will or letters of administration of your estate. However, we may determine who should be paid your financial reparations payment without requiring the production of these documents.

- 2.34. If you have no will or letters of administration, the Department may make reasonable inquiries to identify the people entitled to your property under the laws of intestacy and to assist us to determine who should be paid your financial reparations payment. The Department may make these inquiries with your next of kin, Nominated Support Person or Nominated Organisation, the person who assisted you with your application, people who are entitled to your property under the laws of intestacy and/or any other person the Department considers appropriate.

**Please note:** In Victoria, Part 1A of the *Administration and Probate Act 1958* establishes the statutory scheme for the distribution of property on intestacy. You can find general information about the laws relating to intestacy at: [Intestacy – Fitzroy Legal Service \(fls.org.au\)](https://www.fls.org.au) and [If someone dies without a Will | Victoria Legal Aid](https://www.vic.gov.au/if-someone-dies-without-a-will). This is a complex area of law. If you require further guidance, it is recommended that you seek legal advice.

### 3. How we will process your application for reparations

*If you are terminally or critically ill, you may be eligible for an Advance Payment. Go to Section 7 for more information.*

#### **We will prioritise processing of applications by Applicants who are over 65 years or who are in poor health**

- 3.1. When we receive your Application Form, we will assign it a priority ranking based on:
- 3.1.1. whether you are terminally ill
  - 3.1.2. you are over 65 years
  - 3.1.3. whether you have a particular personal circumstance (for example, poor or declining health) that we should consider in prioritising your application **and/or**
  - 3.1.4. any other factors we consider relevant.

#### **What we will do when we receive your Application Form**

- 3.2. We will confirm receipt of your Application Form.
- 3.3. We will contact you to offer you access to support services, including trauma-informed counselling, financial counselling and legal advice.
- 3.4. We will begin processing your application. We will review your Application Form and ensure that it is complete, including (but not limited to) whether:
- 3.4.1. mandatory fields on the form have been completed
  - 3.4.2. all required documentation is attached
  - 3.4.3. you have agreed to the collection notice and privacy statement and
  - 3.4.4. your Application Form is signed.

3.5. We will contact you if your application is missing information or documentation that we require. You will need to respond to these requests for your application to progress.

**Evidence that will be used to assess your application**

3.6. We need information and evidence to show that you meet the Eligibility Criteria. You will need to provide us some of this information, such as your identification. We will also ask your permission to search public records for other information on your behalf, for example evidence of your removal. If you prefer, you can provide this other information to us instead.

3.7. When you submit an Application Form, you will be asked to give us permission to:

3.7.1. Share your personal information with government agencies to enable us to search public records to collect the relevant information we need to progress your application, and to show this consent to those agencies so that they can release the information to us **and**

3.7.2. Consent to any Nominated Support Person or Nominated Organisation selected by you to collect and receive your personal information to progress your application.

3.8. The Department may search for information related to your removal in records held by State and Commonwealth agencies, or organisations outside of government, which may include government-funded, private sector and not-for-profit organisations such as community-controlled organisations or Churches or organisations that administered orphanages both within and outside of Victoria..

3.9. Any information shared or collected will be done so in accordance with privacy laws, and the Department’s privacy policy (see [www.justice.vic.gov.au/your-rights/privacy/information-privacy-policy](http://www.justice.vic.gov.au/your-rights/privacy/information-privacy-policy)). Further details on this are set out in the Application Form.

3.10. We will contact you if further information is needed in this process. We may seek expert assistance in locating, collating or interpreting the records if we consider this would be of assistance in assessing your application. We may also contact you if we require further information or agreements from you to access adoption and other records on your behalf.

3.11. If you do not provide consent to us sharing and using your personal information for these purposes, your application will proceed on the basis of the information you provide to us, which may reduce the chances of your application being successful.

3.12. The table below shows what information and evidence is required for each element of the Eligibility Criteria.

	<b>Requirement that applies</b>	<b>How we will determine if the requirement is met</b>
3.12.1.	Establishing your identity	You need to provide us with copies of any two of the following forms of identification* showing your name as it appears on the Application Form; and one piece of identification must also show your <b>date of birth</b> : <ul style="list-style-type: none"> <li>• Driver, learner permit, firearm, or marine licence</li> </ul>

	Requirement that applies	How we will determine if the requirement is met
		<ul style="list-style-type: none"> <li>• Proof of Age Card</li> <li>• Keypass</li> <li>• Commonwealth Government Concession Card (including Health Care Card)</li> <li>• Department of Veterans Affairs Health Card</li> <li>• Birth Certificate</li> <li>• Working with Children Check Card</li> <li>• Current Pensioner Concession Card</li> <li>• Current Medicare Card</li> <li>• Passport</li> <li>• Bank Card (copies of both sides) issued by an Australian institution</li> <li>• Bank Statement issued by an Australian institution</li> <li>• Utility Statement (gas, water, electricity, mobile or home phone)</li> <li>• Australian Taxation Office Assessment</li> <li>• Student or Tertiary Institution Identification card</li> <li>• Executed lease agreement</li> </ul> <p>You will also need to provide us with a photo of yourself holding one of the two pieces of identification you provided us with. This will be used to link you with the evidence provided.</p> <p>If your name has changed since you were removed, please provide a copy of the document(s) verifying your name change*:</p> <ul style="list-style-type: none"> <li>• Marriage Certificate</li> <li>• Registration of Name Change (Deed Poll)</li> <li>• Adoption Certificate <b>or</b></li> <li>• another official document verifying name change (such as a statutory declaration)</li> </ul> <p>If your date of birth is not the same on the documents you provide us, you may need to provide us with additional documentation, such as a statutory declaration.</p> <p>If you do not have access to sufficient identification, please contact us to discuss. We may provide an alternate way for you to establish your identity, for example by having an organisation verify your identity.</p>
3.12.2.	If you have a legally appointed guardian, administrator or attorney who is signing on your behalf	<p>You will need to provide us with:</p> <ul style="list-style-type: none"> <li>• their name and contact details <b>and</b></li> <li>• a copy of the guardianship or administration order, or power of attorney, documentation showing that this person is your legally appointed guardian, administrator</li> </ul>

	Requirement that applies	How we will determine if the requirement is met
		or attorney (see paragraphs 2.23 to 2.34 for more information).
3.12.3.	You must be an Aboriginal and/or Torres Strait Islander person.	<p>You will need to provide us with supporting documentation to confirm that you are an Aboriginal and/or Torres Strait Islander person. For example, you may provide one or more of the following:</p> <ul style="list-style-type: none"> <li>• A letter from a recognised Victorian Aboriginal community member that confirms you are an Aboriginal and/or Torres Strait Islander person. <b>(Please note:</b> This should be signed, dated, state the role/capacity in which the author is providing the letter and, wherever possible, be printed on letterhead, preferably from an Aboriginal Community Controlled Organisation).</li> <li>• If you have one, an Aboriginality confirmation certificate witnessed by an Aboriginal Community Controlled Organisation (<b>Please note:</b> the Department <b>does not</b> require you to get a certificate to apply for the Package).</li> <li>• An outline of what you know about your family and Aboriginal and/or Torres Strait Island ancestry that can support confirmation in your application. Please include names of your Aboriginal and/or Torres Strait Islander relatives (for example, your mother, father and/or grandparents), their place of birth, your mob, and/or where your people are from.</li> </ul> <p>For the purposes of this eligibility criterion, you are an Aboriginal and/or Torres Strait Islander person if you satisfy all of the following requirements:</p> <p>(a) you must identify as an Aboriginal and/or Torres Strait Islander person <b>and</b></p> <p>(b) you must be a person of Aboriginal and/or Torres Strait Islander descent.</p>
3.12.4.	Your first removal from family must have occurred in Victoria by a government or non-government agency before 31 December 1976.	<p>You can:</p> <ol style="list-style-type: none"> <li>1. provide this evidence to us by providing copies of official records of your removal that show you meet this requirement, such as your wardship and/or adoption records <b>and/or</b></li> <li>2. provide us with your consent to search relevant records for evidence you meet this requirement. If we cannot</li> </ol>

	Requirement that applies	How we will determine if the requirement is met
		find suitable records, we may contact you for further information.
3.12.5.	You must have been separated from family for a period of time that resulted in the experience of loss of family, community, culture, identity and language.	<p>You can:</p> <ol style="list-style-type: none"> <li>1. provide this evidence to us by providing copies of official records of your removal that show you meet this requirement <b>and/or</b></li> <li>2. provide us with your consent to search relevant records for evidence you meet this requirement. If we cannot find suitable records, we may contact you for further information <b>or</b></li> <li>3. if you were separated from your family for less than three months, provide us with a personal statement of your loss.</li> </ol>

*\*We may seek further information if considered necessary to assess your eligibility for the Package. This may include requesting a conversation with you and a member of the Panel, a statutory declaration, or other information as required.*

**How will we determine that you were first removed while under the age of 18 years?**

3.13. We will consider that your application meets this requirement if you provide:

- 3.13.1. at least one identity document with your date of birth **and**
- 3.13.2. copies of official records of your removal that show when you were first removed **or**
- 3.13.3. your consent for us to search relevant records for evidence you meet this requirement. If we cannot find suitable records, we may contact you for further information.

3.14. You must have been first removed from your family before 31 December 1976 to be eligible for the Package (see paragraph 2.1.2) therefore we will consider that you do not meet this requirement if your date of birth is after 31 December 1976.

3.15. If you were born on or after 31 December 1976, you are ineligible for the Package.

3.16. Decisions on whether you meet this age requirement are made by the Department and not the Panel. These decisions are not reviewable.

3.17. If a decision is made that you do not meet the age requirement and your application is refused, you may apply again if you have further information available.

**How will we determine if you were separated from family for a period of time that resulted in the experience of loss of family, community, culture, identity and language?**

3.18. Your application will meet this requirement if either:

- 3.18.1. you were separated from your family for at least three months **or**

- 3.18.2. the Panel, in considering the circumstances of your removal and any personal statement of loss you provided to us in the Application Form, considers that you have experienced loss of family, community, culture, identity and language.

### **We will finalise your application materials and prepare a recommendation to the Panel**

#### 3.19. We will compile:

- 3.19.1. the information you have provided us in the Application Form **and**

- 3.19.2. any further information you have provided to support your application.

- 3.20. We will also prepare a summary of the information (Summary of Information) about your eligibility. This includes information you have provided to us and, if you have consented, that we have gathered from our record search. This may include information on the year you were removed, where you were removed from, the length of time you were separated from family, and other details we believe are relevant. The Summary of Information is used for the purpose of determining your eligibility. It will not be a full and complete history of your time separated from family.

#### 3.21. We will prepare and submit to the Panel:

- 3.21.1. the Summary of Information **and**

- 3.21.2. an explanation for the Panel's consideration on how the Summary of Information and Application Form aligns with the Eligibility Criteria.

## **4. The Panel will consider your application**

### **How the Panel will assess your application**

- 4.1. The Panel will make a finding on whether an application meets the Eligibility Criteria. The Panel may find an application is eligible or ineligible.
- 4.2. The Panel may seek further information before making a decision but, unless required by these Guidelines, may not decline to make a decision.
- 4.3. Decisions of the Panel will be made on the balance of probabilities.
- 4.4. If an application does not meet all Eligibility Criteria, the Panel may still determine an application is eligible if the Panel believes that the application substantially meets the Eligibility Criteria and that approving the application would be consistent with the Guiding Principles.
  - 4.4.1. In making this assessment, the Panel will consider a range of factors, including whether the reason the Panel cannot make a decision is due to a lack of available records about your removal.
  - 4.4.2. The Panel may also consider whether the removal impacted on your:
    - a) life course or general quality of life
    - b) relations with family and community, including children/grandchildren
    - c) development of social skills, including difficulty trusting and forming relationships

- d) mental or physical health, which might include anxiety, difficulty sleeping, triggering memories or recurring fears (whether during the period of separation or afterwards)
- e) sense of belonging or identity
- f) feelings of shame or abandonment **or**
- g) any other factors that the Panel considers appropriate, consistent with the Final Report.

4.5. In making a finding, the Panel must consider:

- 4.5.1. the Summary of Information
- 4.5.2. advice from the Department
- 4.5.3. the Guiding Principles.

4.6. In making a finding, it is not necessary for the Panel to review your original records. The Panel may rely on the Summary of Information and statements provided by the Department as accurate representations of the original records.

4.7. The Panel may seek further information, which it can consider in making a finding, including:

- 4.7.1. further information from the Department, including requesting a further record search
- 4.7.2. with your consent, Panel members may use their networks within community, including Aboriginal Community Controlled Organisations, to utilise Aboriginal community knowledge to seek additional information **and**
- 4.7.3. speaking with or writing to you to seek further information.

4.8. Once the Panel has made a finding, it will prepare in writing and provide to the Department:

- 4.8.1. the Panel's finding **and**
- 4.8.2. if the Panel finds that you are not eligible, reasons for the Panel's finding

## 5. What happens if you are found to be eligible for the Package?

### We will advise you that you have been found eligible for the Package

- 5.1. If the Panel decides you are eligible for the Package, we will write to you confirming your eligibility.
- 5.2. During the application process, we will ask you to nominate which components from the following list you would like in your Package if you are found to be eligible:
  - 5.2.1. reparations payment of \$100,000
  - 5.2.2. a copy of your available records
  - 5.2.3. an apology from the State



- 5.2.4. supported access to healing programs
  - 5.2.5. trauma-informed counselling, financial counselling, legal advice, disability support services and
  - 5.2.6. the opportunity to record your story and experience.
- 5.3. If you are found eligible for the Package, we will confirm the components that you have nominated. If you have changed your mind, please contact us.
- 5.4. The components of your Package will be delivered as soon as practicable and with consideration given to your requests. Not all components will be delivered at the same time. For example, the department aims to make financial reparations payments two to four weeks after the Panel makes its finding, but it takes longer to obtain and compile copies of your available records.
- 5.5. You can choose to add additional components to your Package at any time before the Package End Date by contacting us.
- 5.6. Details of each component are set out below.

### **Reparation payment of \$100,000**

- 5.7. You may receive a one-off payment of \$100,000.
- 5.8. If you have received an Advance Payment, this will be deducted from your total payment.
- 5.9. Before making the payment, we will seek direction from you on how you would like payment to be made including:
- 5.9.1. the details of one Australian bank account in which to deposit the payments.
  - 5.9.2. those residing overseas using an overseas bank account will be contacted by the team
- 5.10. Any requests to update the Applicant bank account details after the lodgement of the initial application will require a signed form to be completed and returned to the program.
- 5.11. We will then make payment to you.

### **Copy of your available records**

- 5.12. If requested, you will be provided with a copy of your records that we have been able to identify and access.
- 5.13. We may ask you for further information or to complete additional documentation to support access to documents. For example, this may include your consent to search specific archives or to lodge a request under freedom of information law on your behalf.
- 5.14. We will meet the reasonable costs of accessing these records.

### **Apology from the State**

- 5.15. You may choose to receive an apology from the State for your removal (the Apology).
- 5.16. You may choose whether the Apology is delivered to you in person, by phone or in writing.

5.16.1. If you choose to have the Apology delivered in person or by phone, you will also receive a copy in writing.

5.17. If a non-government church or charity agency was involved in your removal, with your permission, we will recommend to the current body representing the relevant non-government agency that they also participate in the Apology.

### **Supported access to healing programs**

5.18. You will be offered funded access to healing programs including:

5.18.1. family reunions

5.18.2. reconnection to Country **and**

5.18.3. language programs.

5.19. We will provide you with the details of programs available that are relevant to your specific circumstances.

### **Trauma-informed counselling**

5.20. You will be offered access to trauma-informed counselling. See paragraph 2.8 to 2.12 for further details.

### **Record your story and experience**

5.21. You will be offered an opportunity to record your story and experience.

5.22. We will not have access to this recording unless you choose to share it with us.

5.23. We will provide you with the details of programs available to support you to record your story that are relevant to your specific circumstances.

## **6. If you are found ineligible for the Package**

### **You will be notified of the Panel's decision, how to seek review, and available supports**

6.1. If you are found to be ineligible, you may seek a new decision about your eligibility for the Package from a Panel, which is known as a Review Panel.

6.2. You must make this request in writing to us before the Application Close Date (31 March 2027). If you have any new information that will support your application, you may also provide this to the Review Panel to consider.

6.3. The Review Panel will follow the procedure set out in Section 4.

6.4. In addition, the Review Panel will have regard to:

6.4.1. the original Panel finding, and any reasons provided.

6.4.2. any additional information provided by the Applicant and the Department.

6.5. If the Review Panel finds that you are eligible, this finding will replace the original finding.

6.6. If the Review Panel finds that the application is ineligible, you may not seek another decision through this process unless the Department agrees that new information or evidence means that a second Review Panel is likely to result in a finding of eligibility.

- 6.7. You can still access some supports if you are ineligible for the Package.
- 6.7.1. If you are ineligible because your first act of removal occurred in another State, you will be offered referrals to available support services.
  - 6.7.2. If you are ineligible because you were separated from family for a period of time that did not lead to loss of family, community, culture, identity and language, you will be able to access counselling.

### **If you are found to be ineligible to the Package after a payment has been made**

- 6.8. If the Department or the Panel determines that you are ineligible, and a payment has already been made to you, we may seek repayment.
- 6.9. If you have received an Advance Payment and are later found not to be eligible or discontinue your application, including by not responding to requests for information needed to assess your eligibility, we may seek repayment of the Advance Payment.
- 6.10. We cannot seek repayment of support services provided to you during the application process.
- 6.11. A decision on repayment will be made by the Panel. The Panel will consider the Guiding Principles, what they know about your circumstances based on your application, and any additional information the Panel considers relevant. For example, the Panel:
- 6.11.1. may not direct repayment if an application is discontinued because the Applicant has passed away or significantly declined in health
  - 6.11.2. may not direct repayment if the application was made in good faith and the Applicant had a reasonable, honest belief they were eligible and
  - 6.11.3. may direct repayment if the application was made in bad faith or was fraudulent.
- 6.12. The Panel must direct repayment if there has been a finding of guilt in relation to the Applicant's conduct in dealing with the Department or the Package.

## **7. If you are terminally or critically ill, you can apply for an Advance Payment**

### **Eligibility for an Advance Payment**

- 7.1. If you are terminally or critically ill, you can apply for an Advance Payment of \$20,000. The Advance Payment will come out of the overall \$100,000 reparations payment for eligible Applicants under the Package, leaving a second payment of \$80,000 to be paid if the Panel finds your application to be eligible for the Package.
- 7.2. You will be eligible to receive an Advance Payment if you:
- 7.2.1. provide a signed Application Form and evidence of your identity (see paragraph 3.12.1)
  - 7.2.2. affirm that you believe you meet the Eligibility Criteria for the Package, including that you are an Aboriginal and/or Torres Strait Islander person who was first removed from their family in Victoria before 31 December 1976, while under the age of 18 years

- 7.2.3. have not provided any information that is likely to materially impact your ability to meet the Eligibility Criteria **and**
- 7.2.4. have the *Form Three: Application for an advance payment* signed by your medical practitioner that states you have been diagnosed with:
  - a) a terminal illness or
  - b) a critical illness, which is:
    - i. a life-threatening illness and
    - ii. likely to materially impact your condition within six months from the date you submit your application, such as to prevent you from having the full benefit of any payment made to you if you had to wait for your application to be fully assessed.

7.3. The Department will assess your eligibility for an Advance Payment based on the information in your application. We may contact you to clarify the information you provided if considered necessary to assess your likely eligibility for the Package. This may include requesting a conversation with you, a statutory declaration or other information as required.

### How you can apply for an Advance Payment

- 7.4. You can apply for the Advance Payment at any time before your application is provided to the Panel either using the Application Form or by contacting us.
- 7.5. You will also need to ask your medical practitioner to complete *Form Three: Application for an advance payment* which is available at [www.vic.gov.au/stolen-generations-reparations-package](http://www.vic.gov.au/stolen-generations-reparations-package).

### How the Department will assess your application for an Advance Payment

- 7.6. Decisions on eligibility for an Advance Payment are made by the Department at its discretion.
- 7.7. Department at its discretion may also request the Panel to make a finding on whether, on balance, the Advance Payment should be made to the applicant on the eligibility for an Advance Payment.
- 7.8. If a decision to make an Advance Payment is refused, you may apply again if you have further information available or your circumstances have changed.
- 7.9. In assessing your application for an Advance Payment, we will not undertake a full assessment of your eligibility for the Package, however if we believe there are issues with your likely eligibility for the Package, we may seek further information or refuse payment.

## 8. Definitions

- 8.1. Aboriginal and/or Torres Strait Islander person is someone who:
  - 8.1.1. identifies as an Aboriginal and/or Torres Strait Islander person and
  - 8.1.2. is a person of Aboriginal and/or Torres Strait Islander descent.

- 8.2. “Applicant” means a person who has lodged (or is taken to have lodged) an application with the Department for reparations under the Victorian Stolen Generations Reparations Package.
- 8.3. “Nominated Organisation” means an organisation described at paragraph 2.14 (a person in relation to whom an Applicant has completed a valid *Form Two: Nomination of a Support Person or Organisation*).
- 8.4. “Nominated Support Person” is a person described in paragraph 2.14 (a person in relation to whom an Applicant has completed a valid *Form Two: Nomination of a Support Person or Organisation*).
- 8.5. “Department” means the Department of Justice and Community Safety.
- 8.6. “Guidelines” means this document.
- 8.7. “Independent Assessment Panel” means the body described at Schedule B.
- 8.8. “Legal Guardian” is a person who is appointed as a guardian under the *Guardianship and Administration Act 2019* (Vic) or similar guardianship legislation in other Australian jurisdictions, and who can exercise powers relevant to this application.
- 8.9. “Organisation” includes corporation, business, body corporate, body politic or unincorporated association.
- 8.10. “Power of Attorney” is a person who is appointed under the *Powers of Attorney Act 2014* (Vic), or similar legislation providing for powers of attorney in other Australian jurisdictions, and who can exercise powers relevant to this application.
- 8.11. “Package” means the Stolen Generations Reparations Package commenced by the Victorian Government on 31 March 2022.
- 8.12. “Package End Date” means 30 June 2027.
- 8.13. “Department” or “we” or “our” means the Department of Justice and Community Services and includes any person undertaking duties for the purposes of the Package.

## SCHEDULE A SUPPORT SERVICES

### 1. Conditions of funding for support services

- 1.1. Support Services referred to in these Guidelines will be funded up to the maximum per hour rate and up to the maximum number of hours indicated in the table below.
- 1.2. These rates will be pro-rated for the actual time the provider spends delivering these services. For example, a provider who delivers 30 minutes of legal advice will receive 50 per cent of the hourly rate.
- 1.3. A provider must not charge a higher rate for services eligible for funding than they would if they were not receiving this funding.
- 1.4. If a provider charges more per hour for the service than the maximum covered under the Package and you accept provision of services at the higher rate, you will be responsible for payment of any gap.
- 1.5. The services must be delivered by a provider who is a member of the eligible profession for the support service indicated in the table below.

### 2. Funded support services

Support service	Eligible providers	Maximum per hour rate (inclusive of GST)	Maximum number of hours
<b>Legal advice</b>	<ul style="list-style-type: none"> <li>• An Australian legal practitioner within the meaning of the Legal Profession Uniform Law (Victoria) or equivalent legislation in another Australian state or territory.</li> </ul>	\$400	5
<b>Counselling</b>	<ul style="list-style-type: none"> <li>• A counsellor recognised by the Psychotherapy and Counselling Federation of Australia or Australian Counselling Association or Accredited Mental Health Social Worker.</li> <li>• A psychologist or psychiatrist registered with the Australian Health Practitioner Regulation Agency.</li> <li>• A counsellor employed by an Aboriginal Community Controlled Health Organisation.</li> </ul>	\$240	35
<b>Financial counselling</b>	<ul style="list-style-type: none"> <li>• Accountant holding membership with either Chartered Accountants Australia &amp; New Zealand or CPA Australia.</li> <li>• Financial advisor as recognised by the Australian Securities and Investment Commission.</li> <li>• Financial counsellor as recognised by Financial Counselling Victoria or equivalent body in another Australian state or territory.</li> </ul>	\$250	5
<b>Disability support</b>	On a case-by-case basis.		

Note: This table may be varied by us from time to time. If you are currently receiving Support Services, we will notify you of changes.

### **SCHEDULE B** INDEPENDENT ASSESSMENT PANEL

#### **1. Background**

- 1.1. The Department has established an Independent Assessment Panel (Panel) to support the administration of the Stolen Generations Reparations Package.
- 1.2. The establishment of the Panel promotes principles of Aboriginal self-determination and avoiding any further harm and re-traumatisation to Stolen Generations people and is consistent with the Bringing Them Home recommendation that any decision-making for monetary reparations should include Aboriginal people.
- 1.3. Terms used in this Schedule are the same as in the Guidelines.

#### **2. Functions of the Panel**

- 2.1. The Panel will perform the following functions:
  - 2.1.1. review and assess all applications for the Package to make a finding on whether the application meets the Eligibility Criteria
  - 2.1.2. provide advice on whether an Applicant should be required to repay any funding provided if their application is found to have been ineligible and
  - 2.1.3. on the request of an Applicant, review an application for the Package that has been assessed as ineligible (in this capacity, the Panel is also referred to as a Review Panel).

#### **3. Role of Panel members**

- 3.1. Up to twelve people may be appointed as Panel Members;
- 3.2. A person is eligible to be appointed as a Panel Member if the person meets one or more of the following:
  - 3.2.1. a thorough understanding of Stolen Generations history and experiences, and/or
  - 3.2.2. experience in:
    - a) decision-making on complex matters
    - b) public administration
    - c) policy development
    - d) advocacy
    - e) law and/or
    - f) state or national redress schemes.

- 3.3. Subject to achieving an appropriate skills and experience balance, the Department will seek to:
  - 3.3.1. appoint a majority of Aboriginal and/or Torres Strait Islander people as Panel Members, with preference given to the appointment of Stolen Generations people and
  - 3.3.2. ensure appropriate gender diversity in appointments.

## 4. Role of Chair and Deputy Chair

- 4.1. One person will be appointed as the Panel Chair
- 4.2. The Chair will perform all of the functions of a Panel member and additionally will:
  - 4.2.1. chair meetings of Panels on which they sit
  - 4.2.2. work with the Department on the administration of the Panels including the allocation and prioritisation of applications
  - 4.2.3. make rules with respect to the procedures of the Panel, consistent with these Guidelines and
  - 4.2.4. provide guidance on the consistent interpretation of these Guidelines.
- 4.3. A person is eligible to be appointed as a Chair if they:
  - 4.3.1. meet the criteria to be appointed as a Panel Member
  - 4.3.2. are an Aboriginal and/or Torres Strait Islander person and
  - 4.3.3. have been removed from their family as a result of Stolen Generations policies.
- 4.4. At least two person will be appointed as the Deputy Chair.
- 4.5. The Deputy Chair will perform the roles of the Chair when they are not present.
- 4.6. When the Chair is present, the Deputy Chair will perform the role of a Panel Member.
- 4.7. A person is eligible to be appointed as Deputy Chair if they:
  - 4.7.1. meet the criteria to be appointed as a Panel Member and
  - 4.7.2. are an Aboriginal and/or Torres Strait Islander person.

## 5. Appointment of Members

- 5.1. Appointments of the Chair, Deputy Chair and Panel Members will be made by the Secretary of the Department.
- 5.2. The Secretary will determine the length of the appointment and the terms and conditions. The Department's *Appointment and Remuneration Guidelines* will set the remuneration of members but will not otherwise apply to the Panel.



- 5.3. The Chair, Deputy Chair and Panel Members must complete and maintain a Declaration of Private Interests and manage (and be able to manage to the Department's satisfaction) any conflict of interests in a manner agreed to by the Department.
- 5.4. The Chair, Deputy Chair and Panel Members are bound by the *Code of Conduct for Directors of Victorian Public Entities*
- 5.5. A Chair, Deputy Chair or Panel member is eligible for reappointment.
- 5.6. The Deputy Secretary, Aboriginal Justice may, at any time and for any reason, remove a Chair, Deputy Chair or Panel Member, by writing to them and the Chair.
- 5.7. If a Chair, Deputy Chair or Panel Member resigns or is temporarily unable to fill their duties, the Deputy Secretary, Aboriginal Justice may appoint a person to fill the vacancy for the remainder of their term or until they resume their duties.

## 6. Confidentiality

- 6.1. Materials and information provided to the Panel in the course of carrying out its functions must be treated as confidential and in accordance with the Department's privacy policy, set out at [www.justice.vic.gov.au/your-rights/privacy/information-privacy-policy](http://www.justice.vic.gov.au/your-rights/privacy/information-privacy-policy).
- 6.2. Where the Panel considers that it is appropriate to distribute materials or information to another person (i.e., an independent expert, a record holding organisation or an Applicant), the Panel must seek approval from the Department in advance.

## 7. Operation of a Panel

- 7.1. A Panel will be made up of two Panel Members and the Chair or Deputy Chair.
  - 7.1.1. If the Chair and Deputy Chair/s recuse themselves, the Panel will be made up of three Panel Members who will choose one to act as Chair.
- 7.2. A person may not sit on a Panel if they have:
  - 7.2.1. a Conflict of Interest in relation to a matter being considered by the Panel or
  - 7.2.2. previously made a finding on an application to be considered by the Panel.
- 7.3. A Panel will meet at the times and places arranged by the Department in consultation with the Chair.
- 7.4. A Panel will consider applications and other matters presented to the Panel by the Department. A Panel may consider one or more applications.
- 7.5. Decisions made by a Panel at a meeting are by agreement of the majority of the Panel.
- 7.6. A Panel may make decisions without meeting by circulating in writing the matter on which a decision is to be made and receiving unanimous agreement by persons on the Panel in writing.