



# NSW Stolen Generations Reparations Scheme and Funeral Assistance Fund

## Fact Sheet 3 – Glossary of Terms

### Authorised representative

An Authorised Representative is a person who has legal power to act on someone else's behalf. For example, they may be legally allowed to submit an application on behalf of a person to apply for the Stolen Generations Reparations Scheme. There are at least three legal ways in which people can become Authorised Representatives: having a General Power of Attorney, having an Enduring Power of Attorney, or by being a legally appointed Guardian.

### Nominated recipient (Funeral Fund)

When you apply for a Funeral Assistance Fund payment you can either decide to receive the payment yourself, or you can decide that the payment can be paid to another person at a later date - for example, at the point your funeral arrangements are being made.

If you decide for the payment to be made later, you will need to nominate a person who will receive the Funeral Assistance payment. The nominated person will likely be someone who will be making the funeral arrangements.

### Personal representative (Stolen Generations Reparations Scheme)

There may be situations where a person submits an application to the Stolen Generations Reparation Scheme, but that person dies before their application has been determined. If this happens, a Personal Representative of the estate of the deceased person can request that the application continue.

A Personal Representative is a person legally appointed to administer the estate of the person who has died.

This person is able to act on behalf of the person who has died, to carry out that person's wishes related to their estate. Clause 13.8 of the Stolen Generations Reparations Scheme guidelines outlines the situations that administration of a deceased estate is granted.

### Power of Attorney

The two most common types of Power of Attorney are:

- 1. General Power of Attorney:** A power of attorney is a legal document made by one person (called the 'principal') that allows another person to look after the financial affairs of the 'principal'. The word 'attorney' when used in the phrase 'power of attorney' does NOT mean that the person appointed has to be a solicitor or lawyer. It can be any person over the age of 18 years who can assist the 'principal' with their financial affairs. It might be a relative or friend.
- 2. Enduring Power of Attorney:** Someone with the Enduring Power of Attorney has the legal authority to look after the financial affairs of another person, and this power continues even after that person becomes unable to look after themselves due to physical or mental difficulties or after a serious accident.

More information on the different types of Power of Attorney see <http://www.tag.nsw.gov.au/what-is-a-power-of-attorney.html>

- **Guardian:** A guardian is a legally appointed person who may make health and welfare decisions on behalf of the person under guardianship. These might include decisions about where a person should live, as well as be able to give consent to medical, dental and health care services generally. A Guardian cannot make decisions about financial matters or a person's estate unless they have been authorised under an enduring power of attorney or have been legally appointed to be the person's financial manager.
- **Person who is otherwise empowered by law:** For example, a lawyer acting on behalf of a claimant.

A person who is an Authorised Representative will have legal documentation outlining the types of arrangements outlined above. The Stolen Generations Reparations Scheme will need to be provided with copies of this documentation, to make sure that the person is legally allowed to act on the applicants behalf.

### **Support person (reparations scheme and funeral assistance)**

When applying for the Stolen Generations Reparations Scheme, you may wish to nominate someone that you authorise to speak to Aboriginal Affairs about your application, and if you wish, also receive correspondence from Aboriginal Affairs about the Reparations Scheme. This person will be someone you trust to support you through the application process. You do not need to nominate a support person, and if you do choose to nominate a support person, this will not stop you from dealing directly with Aboriginal Affairs as well.

Once you have submitted an application for the Reparations Scheme and have nominated a support person and given Aboriginal Affairs their details, the Scheme will only be able to discuss information about your application with yourself and your support person. If you wish to nominate more than one support person you will need to advise Aboriginal Affairs of this arrangement.

### **Who can make a funeral fund application if an eligible person dies before applying**

There may be situations where a person who is eligible for the Funeral Assistance Fund dies after the Fund was announced on 2 December 2016, but before they were able to submit an application to the Scheme. In this instance, the Funeral Assistance payment can be applied for by another person, to help with the funeral costs. A person can apply if they can provide relevant documentation to Aboriginal Affairs to demonstrate that they are the primary person who is making the funeral arrangements and covering the funeral costs. Documentation that Aboriginal Affairs will accept includes a copy of the death certificate for the eligible person, documentation from the Funeral Director with the eligible person's name, or invoices or receipts for funeral costs. The full list of documentation that Aboriginal Affairs will accept is at clause 4.6 of the Funeral Assistance Fund Guidelines.

### **Funeral costs**

The Funeral Assistance payment does not need to be used only for the cost of the funeral itself, but can be used to broadly cover costs associated with funerals. This can include burial rights, headstones, memorials, death notices, memorial events, or travel and accommodation for people to attend the funeral.