

# Accountability between First Nations and the NSW Government

## A quick guide

### **Any relationship needs accountability.**

Aboriginal Affairs NSW asked us at the Jumbunna Institute to find research and programs that showed what was possible in accountability between states and First Nations.

This summary will help guide conversations between the NSW Government and First Nations about accountability. We did not make any decisions on behalf of mob, who should lead any decisions on this.

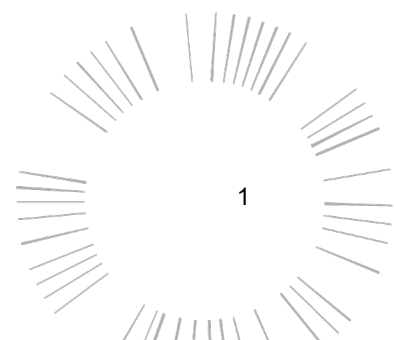
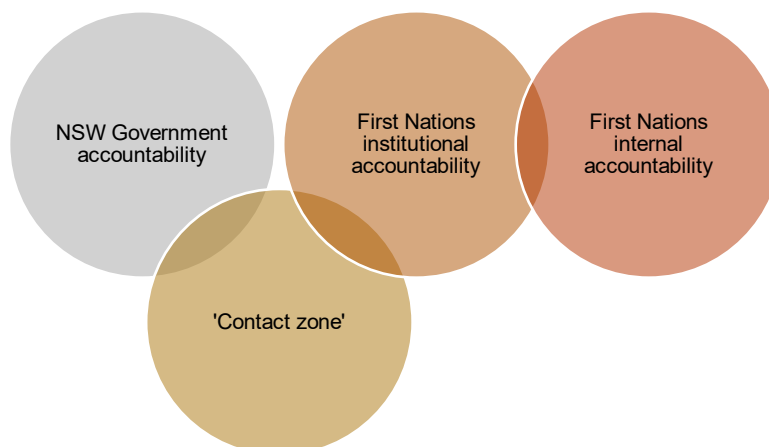
## What is accountability?

Accountability is a way of demonstrating responsibility and being responsible for programs, decisions and mistakes.

There are many ways that accountability happens. It can happen within our communities, or it can take place externally. It can happen bureaucratically, through annual reports, accounting and document-sharing — or it can happen politically through elections or inquiries, or even legally through courts.

In NSW for Aboriginal people, accountability happens where our two systems (Aboriginal and non-Aboriginal) meet. This is called the 'contact zone' — where both Aboriginal and non-Aboriginal society bring ideas and protocols about accountability, but where neither society has full control of the accountability that happens.

Some First Nations in Australia have made rules for the 'contact zone' that make governments accountable to them on their terms, but that also offer governments a relationship. It involves setting up institutions that represent them to enter into the 'contact zone', protecting their internal business from government oversight. It looks like this —



# What's the difference between Aboriginal and State accountability?

Some First Nations and Aboriginal people know how NSW Government accountability works, and work within it as experts to represent their own communities. However, there are differences between non-Indigenous State accountability and First Nations accountability systems. We can't cover them all, and some First Nations or communities might be different, but generally speaking —

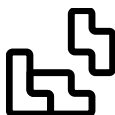
## First Nations accountability systems



Are about responsibility, relationships and protocols rather than just information or reports



Give us rights to relationships, processes and informed decision-making that are given to individuals depending on their relationship with the community



Are sometimes based on outcomes and compliance with the right way of doing things



Give us accountability as a whole person, not just based on the job we have or the elected position we have



Are place-based and relationship-based — so they act with authority that comes from Country and means that First Nations act as Country



Rely on negotiating and discussion processes, with authority from Elders

## Non-Indigenous State accountability systems



Are about transparency and information-sharing, with public distribution



Are based on individual rights and authority



Get their authority from institutions, statehood and funding



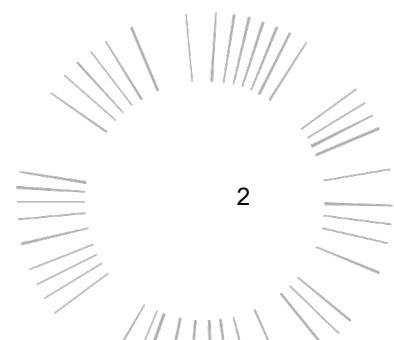
Offer accountability based on professional or political roles



Are cycled around elections and reporting

# Can we translate accountability?

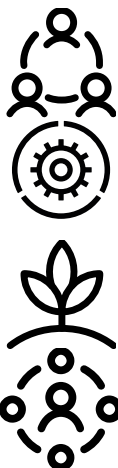
Accountability is more than words, and Aboriginal concepts are also more than words. They have relationships, communities, and protocols attached to them. Translating accountability will mean that the NSW Government has to think about how it can understand Aboriginal concepts in their own right — and the role that those concepts play in accountability.



# What's needed for accountability?

Accountability is complicated. The research tells us that, for Aboriginal people and the NSW Government to share an accountable relationship, this is what might need to happen.

## From First Nations —



**Self-determination:** we need our own internal accountability rather than being held accountable to the NSW Government.

**Institutions:** we need decision-making institutions outside of the NSW Government. They need to have cultural and political authority from Aboriginal people and First Nations, and, from the local level, be culturally appropriate and have strong buy-in from community

**Sovereignty or other power:** we need our sovereignty recognised by the NSW Government, or at least some State powers shared with us.

**Leadership and readiness:** we need to decide what we as communities need to make this happen and build leadership and capacity around that.

## From the NSW Government —

**Opening up:** the NSW Government should open up to share information with First Nations, in a proactive way. It should also be open about negotiating on resources, finance, land rights and law reform that allows First Nations to be accountable to themselves.



**Protocols:** the NSW Government needs to have its own internal accountability on Aboriginal affairs, so First Nations aren't always having to raise complaints for things to happen. This should include plans on how to change its behaviour and redress wrongs, not just report on them.



**Non-Interference:** the NSW Government must commit to not interfering in First Nations internal accountability.



**Readiness:** the NSW Government must make sure the accountability framework is known across all its agencies and decision-makers, as well as train up its public servants in these new ways of doing things.



**In the 'contact zone'**



**Equality:** the relationship must be made equal, through resources, timeframes and negotiating power.

**First Nations leadership:** the relationship should include guides for how accountability happens, with those guides made and monitored by First Nations.

**Adaptability:** the terms of contact may change over time to respond to new information, new community goals and lessons learned along the way.

**Responsibility:** accountability must be understood as a relationship that comes with a set of responsibilities.

**Proactivity:** accountability can't just react to relationship breakdowns or another crisis, it must be possible to address concerns before they blow up.

**Consequences:** there must be consequences for breaches of responsibility from the NSW Government, consequences established at the start of the relationship by First Nations

**Between governments:** these relationships must be understood as being relationships between the NSW Government and Aboriginal Governments or First Nations.

**Representation:** on the terms of First Nations, they have representation

**Centrality:** are relationship-based, not project-based.

## How can our knowledge play a role in accountability?

Information is key to keeping an accountable relationship. Without it, it's hard to know if government promises, or promises within our own communities, are being kept.

There is a big push for First Nations to control the information collected about us, sometimes called data sovereignty. Some First Nations have used data sovereignty to make their own measurements of community success to be accountable to, and others have used data sovereignty to keep governments to account to their own promises.

For data sovereignty to happen around accountability, it needs —



to protect cultural and respect Aboriginal knowledges



to be led and controlled authoritatively from start to finish by our communities



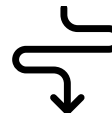
to promote justice and self-determination



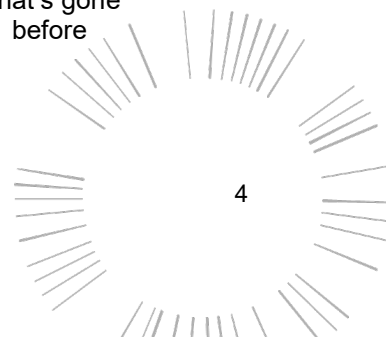
to reflect our communities' values, ways of thinking and priorities



to be supported by community-led institutions, which are funded to do this



to reflect and build on what's gone before



# How can communities control accountability for our own services?

Being accountable to our own people for our own affairs is key for self-determination.

To be an ally in self-determination, the NSW Government should build its own protocols for transferring accountability for our own services to community organisations. It must also seek support and feedback on how this transfer should happen from community service-providers, community members and from Aboriginal staff in the government.

First Nations in NSW could consider a state-wide, community-led body that can review the transfer of accountability. That body may consider collecting data, monitoring progress and report to Aboriginal people and First Nations about what's happening.

There may be a transition period while accountability transfers, which will require working together in the 'contact zone'.

## How do we agree, build and maintain accountability?

Making agreements in relationships between First Nations and settler governments is difficult, but crucial. There are many agreement-making processes happening right now between First Nations and governments in Australia, including under Closing the Gap and under *OCHRE* in NSW and treaty discussions in Victoria, Queensland and the Northern Territory.

Accountability agreements, if they're going to stay the course, need —

### From mob

- Representative institutions and community backing from Aboriginal communities and First Nations in NSW
- Aspirations, goals, and decisions about how we get there
- Community-controlled information and research

### From the NSW Government

- Regard to the burden that agreement-making places on First Nations communities
- An approach that meets different First Nations and Aboriginal communities where they're at, and is flexible for the diversity of Aboriginal peoples in NSW
- Compromise from governments and agencies
- Funding arrangements based on relationships, rather than projects
- Co-design as a way to get to self-determination, but with an end date

### From both of us

- Careful thought about First Nations jurisdiction (the right to make legal and policy decisions)
- Plans to make these agreements permanent and reliable, and living, able to be negotiated as the relationship grows
- Tangible outcomes and goals
- Commitment to an ongoing process, based on mutual respect and
- Protocols for adapting to change — driven by information and feedback from community