

Law Officers (Civil Claims Involving Institutional Child Abuse) Chief Solicitor Guidelines 2026*

made under the Law Officers Legal Services Directions 2023, clause 19.1

NI2026-483

A. Name of Instrument

1. This instrument is the *Law Officers (Civil Claims Involving Institutional Child Abuse) Chief Solicitor Guidelines 2026*.

B. Commencement

2. This instrument commences on the day it is signed.

C. Purpose

3. The purpose of this Guideline is to outline the principles that guide the Territory and its agencies when responding to civil claims for compensation concerning allegations of institutional child abuse.¹
4. These principles have been designed to minimise potential re-traumatisation of claimants, to avoid unnecessarily adversarial responses to claims and to ensure consistency across all Territory agencies.²
5. This Guideline complements the Territory's general obligation to act as a model litigant as required by the Law Officers Legal Services Directions 2023 (Legal Services Directions), Part 2: Legal Services (Model Litigant Guidelines) Directions (Model Litigant Guidelines).
6. The Model Litigant Guidelines require the Territory and its agencies to act honestly and fairly in handling claims and litigation brought by or against the Territory or an agency.

¹ See *Civil Law (Wrongs) Act 2002*, s114AA: definition of 'child abuse'.

² These principles are consistent with the recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse in the Redress and Civil Litigation Report (see recommendations 96-99).

*Name amended under Legislation Act, s 60

D. Principles

7. This Guideline outlines principles as they pertain to:

- (a) handling claims;
- (b) resolving claims; and
- (c) accountability of other parties.

Handling claims

8. Territory agencies should be mindful of the significant potential for additional trauma that claimants in relation to institutional child abuse may experience during the claims and/or litigation process and act in a way that minimises this potential.
9. In the handling of such claims, Territory agencies should:
- (a) avoid unnecessarily adversarial conduct and communications;
 - (b) respond to, conduct and resolve similar claims consistently;
 - (c) acknowledge claims without delay and in doing so:
 - i. identify the particulars needed to progress the claim at an early stage so that investigations can commence promptly, and
 - ii. provide information about services and supports available to claimants;³
 - (d) assist claimants and their legal representatives in identifying the proper respondent(s) if they have not yet been identified;
 - (e) maintain regular communication with claimants or their legal representatives regarding the management of their claim, its progress and any likely timeframes;
 - (f) where feasible and in compliance with relevant laws, facilitate access for claimants and their legal representatives to records and information pertaining to the claim and the allegations made by the claimant;
 - (g) in relation to medico-legal evidence, endeavour to minimise trauma to claimants and, if appropriate, consult with claimants about the choice of experts including the possibility of agreeing on a single expert; and
 - (h) not dispute claimed facts which the Territory considers are likely to be correct, or which are not considered necessary to prove to properly resolve the claim.

³ A list of services and supports for victims and survivors of child abuse can be found at the National Office for Child Safety website (<https://www.childsafety.gov.au/get-support>), including for counselling, legal services, and engaging with the National Redress Scheme.

Resolving Claims

10. Relevant to the resolution of claims, the Territory should:
- (a) strive to resolve claims as expeditiously as possible, including by paying legitimate claims without resorting to formal litigation⁴ or requiring claimants to prepare a Statement of Claim;
 - (b) consider any requests from claimants for alternative forms of acknowledgement or redress, in addition to monetary claims (such as site visits or written apologies in appropriate circumstances);
 - (c) consider the most appropriate alternative dispute resolution processes in the context of each claim and facilitate appropriate processes at an early stage, if possible; and
 - (d) consider the use of confidentiality clauses on a case-by-case basis, taking into account the nature of the claim, the preferences of the claimant and the obligations specified in the Legal Services Directions⁵.

Accountability of other parties

11. To ensure other responsible parties are held accountable, Territory agencies should:
- (a) acknowledge and act upon existing obligations to report claims of any serious indictable offences to the relevant law enforcement agency or other responsible entity;⁶
 - (b) consider seeking contribution from, including joining to any proceedings, any other entity including the Commonwealth or any non-Government institution, which may bear liability for the child abuse; and
 - (c) consider pursuing a contribution to the settlement amount from the alleged abuser(s) or other liable respondent(s) where practical and appropriate, while being mindful of any associated risk of traumatisation of the claimant (such as that arising from the need to give evidence and/or come face to face with the alleged perpetrator in a court hearing).

E. Application of guiding principles

12. The above principles are intended to guide the Territory and its agencies and be applied flexibly with regard to the circumstances of each particular claim.

⁴ See *Law Officers Legal Services Directions 2023*, s17.1(1) - (2).

⁵ See also, *Legal Services Directions*, s10.

⁶ See, for example, *Crimes Act 1900 (ACT)*, s66AA.

13. These principles do not prevent action to protect the proper and legitimate interests of the Territory and its agencies. Further, they do not preclude all legitimate steps being taken to test allegations and defend claims.⁷

Peter Garrisson AM SC
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exercising the functions of the Chief Solicitor

Date: 24 September 2026

⁷ See also, Legal Services Directions, s18.