

# Productivity Commission

## Review of the National Agreement on Closing the Gap

Submission from the South Australian Government

October 2023



## Introduction

The South Australian Government (SA Government) is pleased to provide the Productivity Commission (PC) with a submission in response to its request for further information on the draft recommendations and matters outlined in its Review of the National Agreement on Closing the Gap Draft Report (Draft Report).

The first three-yearly review of progress is an important milestone in the term of the National Agreement on Closing the Gap (National Agreement), as it has the capacity to significantly shape and inform implementation of the National Agreement over the remainder of the decade.

The SA Government acknowledges the significant work associated with the development of the Draft Report, as well as the thorough consultation and engagement process which has been adopted by PC. The SA Government looks forward to receiving the final report in due course.

## Terminology

Where this submission provides commentary about the South Australian (SA) context, it respectfully uses the term 'Aboriginal' rather than 'Indigenous' or 'Aboriginal and Torres Strait Islander' to refer to people who identify as Aboriginal, Torres Strait Islander, or both. The SA Government recognises Aboriginal peoples and Torres Strait Islander peoples as two distinct groups. However, this submission refers to Aboriginal persons in recognition that Aboriginal people are the original and ongoing inhabitants of SA. The SA Government acknowledges that there are people with Torres Strait Islander heritage living in SA.

Where this submission refers to the national context, it will refer to Aboriginal and Torres Strait Islander people or Indigenous people. The SA Government acknowledges the complexity and diversity of the Aboriginal and Torres Strait Islander communities of Australia and recognises that each has its own beliefs and practices.

## Acknowledgements

We acknowledge and respect Aboriginal peoples as the state's first peoples and Nations, and recognise them as traditional owners and occupants of land and waters in SA. Further, we acknowledge that the spiritual, social, cultural and economic practices of Aboriginal peoples come from their traditional lands and waters, that they maintain their cultural and heritage beliefs, languages and laws which are of ongoing importance, and that they have made and continue to make a unique and irreplaceable contribution to the state.

We acknowledge that Aboriginal peoples have endured past injustice and dispossession of their traditional lands and waters.

## Priority Reforms

### Information Request 1: Effective Policy Partnerships

The Commission is seeking further information on the effectiveness of the structure and governance arrangements for the Justice Policy Partnership and other policy partnerships established under the National Agreement on Closing the Gap.

- Are adequate support structures (such as resourcing and sufficient timeframes to provide views) in place to enable the participation of Aboriginal and Torres Strait Islander people and organisations? What else would help to support participation?
- How do policy partnerships build accountability into their structure and governance?
- Are the policy partnerships the right mechanism to address change across the five sectors? Are there other mechanisms that would be more effective?

The Draft Report notes that the policy partnerships are guided by Agreements to Implement (Partnership Agreements), which are established by Joint Council under the authority of the National Agreement and agreed by all policy partnership members.

The Partnership Agreements set out the meeting protocols, including the frequency of meetings and timing of meeting papers. They also incorporate accountability measures which are linked to structure and governance functions, including:

- co-chair arrangements, with a Coalition of the Peaks/First Nations co-chair and a Commonwealth Government co-chair
- reporting obligations, including that policy partnerships will be a standing item at Joint Council meetings, and requirements for each policy partnership to report annually in writing to the Joint Council (through the Partnership Working Group, which may prepare additional materials or responses to accompany the report)
- clear roles and responsibilities outlined in the Partnership Agreements, including joint responsibilities, responsibilities of government parties and of Coalition of Peaks parties.

The Partnership Agreements specify that the Commonwealth will provide resourcing for secretariat functions, including to lead peak organisations as co-chairs, to meet the reasonable costs of travel and to support the participation of independent Aboriginal representatives. However, the funding provided to each policy partnership varies and should be reviewed to ensure an equity across partnerships.

Importantly, the meeting protocols can be reviewed by the policy partnership, which provides a mechanism to respond to feedback from Aboriginal members about how to better support their participation, as required. PC may like to consider recommending that each policy partnership review its meeting protocols to ensure parties have adequate time to review, consult and establish views and responses to meeting papers. The review should ensure meeting protocols uphold the principles of the National Agreement, which includes facilitating genuine partnership and shared decision-making.

As the governing and decision-making authority for the National Agreement, Joint Council has considered and approved the policy partnerships (including the individual governance models, functions and approaches) as the mechanisms to support a joined-up approach to the five policy areas.

As noted in the SA Government submission to *Review Paper 2: Proposed Approach and Invitation to Engage with the Review*, “[g]enuine partnership and shared decision making with Aboriginal people ensures that policies, programs and services are tailored to, meet the needs of, and improve outcomes for Aboriginal people.” Developing this partnered way of working takes time – to build trust, a strong foundational relationship and to establish processes and approaches for shared decision making. Work being progressed by the policy partnerships is at various stages of maturity, with a number of the policy partnerships meeting for the first time in 2023. The policy partnerships are the right mechanism to drive change across the five sectors, however they need sufficient time to deliver on their objectives as agreed nationally through Joint Council.

## Information Request 2: Shifting Service Delivery to Aboriginal Community-Controlled Organisations

The Commission is seeking further information on:

- examples of good practice in transferring service delivery from mainstream organisations to ACCOs
- the risks to the sustainability of ACCOs from simply ‘lifting and shifting’ mainstream services into ACCO delivery
- putting obligations for governments into service delivery contracts, such as requirements for governments to provide data to ACCOs to enable them to design and deliver services that best meet the priorities and needs of service users
- the extent to which, in transferring service delivery from mainstream organisations to ACCOs, governments are reforming the way that services are contracted, funded, delivered, reported against and evaluated.

The SA Government is working in partnership with the SA Aboriginal Community-Controlled Organisations Network (SAACCON) on a whole-of-government policy framework and approach for the delivery of Priority Reform 2. This partnership work is focused on ensuring the transition of services occurs in a manner which builds and sustains the strength of Aboriginal Community-Controlled Organisations (ACCO) and provides the capacity to increase service delivery load. Key activities include:

- mapping the SA ACCO sector to identify the sector’s goals and growth opportunities, and to define what is required to achieve these outcomes
- consideration of the capacity development requirements of SA ACCOs
- development of a whole of government practice guideline to inform working with ACCOs, to increase the proportion of services delivered by ACCOs, and best support ACCO growth
- review of best practice approaches.

The SA Government is also reviewing SA Government grant and procurement mechanisms and guidelines in collaboration with SAACCON, ACCOs and the non-government sector, including by considering alternative service/contractual models for shared outcomes and responsibilities.

The SA Funding Policy for the Not-for-Profit Sector sets out the SA Government approach for ongoing and one-off funding arrangements and applies to all public authorities. The policy incorporates collaboration and partnership as best practice principles, including that public authorities and the Not-for-Profit sector should work collaboratively and flexibly to achieve shared outcomes. It also provides scope for SA Government agencies to include obligations for governments in service delivery contracts to assist with the design and/or delivery of services as appropriate. The review of the policy guidelines could consider the inclusion of obligations for government in service delivery contracts as appropriate.

The SA Government is currently working with SAACCON to deliver the Community Data Project in Adelaide's western suburbs. This work includes identifying the data priorities of the Aboriginal community-controlled sector and the application of principles of Indigenous Data Sovereignty and Indigenous Data Governance. To support this new way of working, data sharing agreements will be established. These agreements will enable Aboriginal Community Controlled Organisations to seek data from the SA Government to support them to design and deliver services that best meet the community's priorities and needs. This project is a significant step for SA in addressing both priority reform 2 and priority reform 4.

Individual SA Government agencies are undertaking work to increase the proportion of services delivered by the Aboriginal community-controlled sector, including scoping the transition of service delivery from mainstream organisations to ACCOs.

An example relates to the Department for Child Protection's (DCP) transfer of support for kinship carers. In 2020, DCP successfully advocated for the transfer of support for kinship carers of Aboriginal children and young people to ACCOs as part of a broader contract reform agenda. Previously, all carer support was provided through an internal DCP program. DCP initially invested \$3 million over two years in three ACCOs to deliver services to provide support, information, and training for kinship carers and to better support kinship carers to connect with services such as trauma specialists, education and health. This program is now ongoing.

Further, in July 2021 DCP partnered with the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council to implement an Anangu Pitjantjatjara Yankunytjatjara (APY) Lands kinship carer support program. This \$500,000 program employs a full-time team leader and full-time APY Lands based kinship care worker as well as several casual staff including a Malpa ("friends on the journey") Aboriginal worker in Pukatja (Ernabella).

## Information Request 3: Transformation of Government Organisations

The Commission is seeking additional information from government organisations on how they are implementing Priority Reform 3.

- What work have government organisations done to understand the systemic and structural changes that they need to make to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people?
- How have government organisations sought to address institutionalised racism?
- How have government organisations changed their organisational cultures and priorities to align with the principles of Priority Reform 3?
- How have these changes been reflected in government organisations' structures, operations and decision-making?
- What overarching changes need to occur at the whole-of-government level to ensure that changes within government organisations are not isolated activities?
- What role should truth-telling play in implementing Priority Reform 3?

Since the commencement of the National Agreement, the SA Government has been working to understand the systemic and structural changes needed to move beyond business-as-usual approaches, increase accountability, and respond to the needs of Aboriginal people.

The SA Government acknowledges the need for transformational change to occur as soon as possible. To date, the SA Government has focused its attention on establishing the foundations which will leave us best placed to meet our commitments under the National Agreement over the long term. Key activities include developing a governance model which will ensure the SA Government is accountable directly to Aboriginal people and communities, and genuine efforts to build a relationship of trust and openness with SAACCON.

Placing initial emphasis on getting the fundamentals right may result in a perception that there has been limited progress in achieving the wholesale transformational change required by Priority Reform 3. However, we believe this early work will lead to better outcomes in the long term.

The SA Partnership Agreement on Closing the Gap (Partnership Agreement) is an instrumental accountability measure within SA. Through the Partnership Agreement, the parties commit to open and transparent negotiation and shared decision making on matters relating to the implementation of the National Agreement. In promoting shared decision making, Aboriginal representatives can speak without fear of reprisals or repercussions, self-determination is supported, and partnership parties have access to the same information on which any decisions are made (subject to privacy principles and intellectual property rights).

The Partnership Agreement also establishes the Closing the Gap SA Partnership Committee (Partnership Committee), which met for the first time in December 2022. The Partnership Committee includes equal representation from SAACCON and the SA Government, and is the central governance mechanism for Closing the Gap in SA. It is responsible for developing and implementing a shared work plan, monitoring progress (including work to embed the priority reforms), and ensuring a shared understanding across the SA Government of SAACCON's authority and expertise as an equal partner.

While relatively new, the Partnership Committee has assisted government organisations to understand the systemic and structural changes that they need to make to improve accountability and respond to the needs of Aboriginal people. It achieves this by providing a forum where government representatives can have frank and sometimes difficult conversations with SAACCON about implementation of the National Agreement. It also provides SAACCON with a safe space to hold the SA Government to account if it deems efforts to be inadequate.

A clear example of how this foundational work is strengthening future approaches is through the extensive negotiation process which has occurred to develop new Closing the Gap implementation actions, to be contained in schedules to the Partnership Agreement.

Throughout 2023, SAACCON and SA Government agencies have been negotiating an overarching schedule focused on partnership actions aligned with the priority reforms, as well as seven schedules aligned with the themes of justice, health, housing and community infrastructure, education and Aboriginal languages, economic participation, employment, skills development and digital inclusion, and land and waters. Each schedule will contain actions agreed by SAACCON and the SA Government which go beyond the now business-as-usual approaches which were progressed in the first two years of SA's first Implementation Plan.

It is intended the schedules will secure outcomes across the Closing the Gap priority reforms and socio-economic targets and will eventually form a refreshed SA Implementation Plan. While negotiations are not yet complete, they are in the later stages.

A key challenge for the SA Government going forward is how to capture and drive the systemic and structural changes needed to facilitate transformation, as well as how to monitor the progress and impact of the changes which are taking place. While conversations throughout 2023 have centred around the Partnership Agreement schedule negotiations, it is jointly recognised by the SA Government and SAACCON that this is essential work which must be undertaken in partnership.

This is not a challenge unique to SA, which has been demonstrated by the lack of data and indicators for measurement and reporting on progress against the Closing the Gap priority reforms at the national level.

The Partnership Working Group has prioritised the development of a measurement and reporting framework for the priority reforms, and the engagement of the Australia and New Zealand School of Government (ANZSOG) to undertake this work is a welcome milestone. The SA Government looks forward to participating in this work in collaboration with ANZSOG, the National Indigenous Australians Agency (NIAA) and its partners, and assesses that the measurement framework will be an essential tool for improving accountability and ensuring improved responsiveness to the needs of Aboriginal people.

Going forward, the South Australian First Nations Voice will also be an important mechanism for informing transformational change within the public sector and increasing government accountability in an open and transparent way. The SA First Nations Voice will provide an opportunity for Aboriginal people to raise community priorities, experiences and perspectives. The Local First Nations Voice will be established in six regions across SA and will engage and listen to local Aboriginal people about issues or concerns of importance to them. They will also engage with government at the local level. The State First Nations Voice will engage directly with Parliament. It will hear the views of each Local First Nations Voice and form state-wide views and positions which it can present directly to the SA Parliament, Cabinet and SA Government chief executives.

As set out in the SA Government submission to *Review Paper 2: Proposed Approach and Invitation to Engage with the Review*, “by striving towards more Aboriginal representation, cultural competency training, community involvement, partnership agreements, and addressing structural racism, SA Government agencies are improving how they interact with Aboriginal communities”.

The approaches adopted by individual SA Government agencies include actions which align with the six transformational elements of Priority Reform 3, such as the establishment of departmental frameworks to shape organisational culture and guide decision making, changes to governance arrangements to ensure a sustained emphasis on significant matters affecting Aboriginal people, and approaches to decision-making which prioritise Aboriginal cultural authority, expertise and the right to self-determination.

The SA Government is implementing its Closing the Gap commitment to tackle institutionalised racism through a variety of approaches.

Wellbeing SA and the Office of the Commissioner for Public Sector Employment (OCPSE) have developed the first *Public Sector Anti-Racism Strategy 2023-28* and Action Plan to focus across-government action against racism. It is expected to be publicly launched in late 2023. Developed through extensive consultation with Aboriginal and multicultural communities, the Anti-Racism Strategy addresses systemic, interpersonal and internalised racism in the public sector, in line with the transformation elements under Priority Reform 3. It takes proactive steps to identify and oppose racism by changing policies, behaviours and beliefs that perpetuate racist ideas and actions. The Anti-Racism Strategy is evidence-based and is aligned with the approach of the Australian Human Rights Commission in developing the proposed national anti-racism framework.

There are strong links between the Anti-Racism Strategy and other whole-of-government initiatives led by OCPSE:

- OCPSE supports agencies to implement the *Work Health and Safety Framework for Cultural Safety*. This framework recognises cultural safety as an important element of psychological health, and the framework and an accompanying implementation guide provides guidance for agencies to support a culturally safe work environment and meet their obligations under the *Work Health and Safety Act 2012* (SA).
- There is close alignment between the Anti-Racism Strategy and a new diversity, equity and inclusion strategy for the public sector that will be launched in late 2023. The latter strategy will support agencies to build workforces that reflect the community and foster an inclusive culture where all employees are welcome and empowered to speak up.

- OCPSE manages the across-government employee survey, which collects feedback from employees across the public sector on their experiences in the workplace, including discrimination based on race.

OCPSE initiatives build upon the efforts of SA Government agencies. Many agencies are investing in the cultural capacity of their employees and reducing institutionalised racism, with a few agencies already piloting specific anti-racism training.

For example, the Department of Human Services (DHS) is looking at ways to measure the experience of racism for both Aboriginal stakeholders and clients receiving services and Aboriginal employees within DHS. DHS is exploring the development of a *Customer Experience Framework* which will include a measure for clients to report any experience of racism or discrimination. It is critical for DHS to understand the experience of Aboriginal people interacting with the department, particularly through mainstream services. In line with Priority Reform 4, appropriate data must be captured to create a baseline measure. Once a baseline measure is established DHS will be able to assess whether new policies and practices are needed. Any solutions will be developed with Aboriginal people to ensure they are fit for purpose.

Further, DHS is making its services and workplaces safe and inclusive for all people and ensuring the full diversity of the communities it serves are represented in the strategies it leads. In 2023, DHS released a new *Grievance Resolution Procedure* and launched a Grievance and Review Resolution portal to assist staff with reporting their experiences, including the option for staff to report their experience of racism anonymously or be assisted to safely escalate the issue. This process will provide a new data set for DHS to monitor and consider the experience of Aboriginal staff. DHS is also developing its first departmental Anti-Racism Strategy, and this new data set will inform actions taken and the monitoring of progress under the proposed strategy.

The Aboriginal Affairs Executive Committee (AAEC) was established in 2020 and is responsible for providing strategic, across government leadership on issues affecting Aboriginal people. It is made up of chief executives and Aboriginal senior leaders within the SA public sector. The AAEC has established four working groups of approximately 16 members, with at least 50 percent Aboriginal representation. These working groups are convened under the oversight of the AAEC to address the following priorities:

- Over-Representation of Aboriginal South Australians in the Criminal Justice Sector
- Economic Participation
- Supporting Growth in Aboriginal Community Controlled Organisations
- Building Capacity on Vulnerable Families.

By bringing together Aboriginal and non-Aboriginal public sector employees from across government, these working groups can identify critical systemic issues and enable structural changes from within the public sector.

The AAEC has also supported the establishment of the Aboriginal Public Sector Staff Forum in partnership with the OCPSE. The Forum provides an opportunity for Aboriginal public sector staff to come together, share their experiences within the public sector, and build across government networks and supports.

The Department for Environment and Water (DEW) has implemented the *Cross-Cultural Competency Training Framework* which is delivered in partnership with KSJ Consulting Service, an Aboriginal owned and managed business. This training aims to educate DEW staff on racism with the objective of identifying and eliminating racism within DEW.

The Department for Education (DE) has produced a number of frameworks which guide organisational change consistent with the transformational elements of Priority Reform 3. DE is implementing a *Culturally Responsive Framework* which is designed to support the development of cultural awareness and understanding and respect in DE's workplaces, and is complemented by a self-reflection tool. The framework outlines six domains for action to build culturally responsive capabilities. The four core domains are applicable to the entire workforce (respect, collaboration, leadership, accountability) and two functional domains are applicable for educators and policy staff (teaching and learning, policy development). DE is taking a staged approach to implementing the framework to support the development of staff awareness and capability.

DE has also developed the *Aboriginal Voice Framework*. Implemented in early 2023, the Aboriginal Voice Framework is a mandated internal procedure that provides a mechanism for embedding input from Aboriginal staff at all stages of the development and design of DE policies, projects, procedures, guidelines, frameworks and standards in a flexible, sustainable and ongoing manner. The Aboriginal Voice Framework is supported by the *Aboriginal Voice Consultation Network Register*, which consists of Aboriginal staff from across DE with relevant experience and expertise, who are capable of and willing to provide high level strategic, program, planning and policy advice as requested. The register enables Aboriginal voices to be heard at the earliest opportunity in the policy process.

The Murray River flood response is another example of SA Government agencies taking steps to embed the transformational elements of the National Agreement in work impacting Aboriginal people. The Murray River flows through several Aboriginal communities and groups, all of whom have a long, deep, and spiritual connection to the river and its environs. The impact of the 2022 floods on Aboriginal heritage is significant, and recovery is complex, long, and layered.

Feedback was provided by some Traditional Owner groups early in the recovery phase about their preferred model for cultural heritage management. The SA Government listened to these concerns and took steps to ensure all River Murray Aboriginal groups are at the centre of clean-up activities. This includes a guarantee of Traditional Owners being paid properly for their services and expertise, including being employed in key heritage management roles. SA Government agencies and private contractors have endorsed a flood recovery model with Traditional Owners, and SA Government agencies and private contractors must include cultural awareness programs within their standard operating procedures for clean-up activities.

The Department for Correctional Services (DCS) has put in place several internal governance arrangements to reduce the overrepresentation of Aboriginal people in custody and under supervision. One example is the Aboriginal Offender Management Committee (AOMC), which provides strategic oversight and advice on the offender management systems that underpin DCS's service response to Aboriginal people. The goal of AOMC is to ensure Aboriginal people are receiving required services, are actively progressed where appropriate, and the supports they receive are culturally safe.

The SA Health *Aboriginal Health Care Framework 2023-2031* sets the long-term strategic intent to improve the health and wellbeing of SA Aboriginal people. Designed in partnership with Aboriginal stakeholders, this framework will guide SA Health's investment in Aboriginal health to create a stronger and more culturally responsive health system. It highlights the importance of a partnership approach, combining the efforts of government, non-government and community-controlled sectors working with communities.

Wellbeing SA's *Aboriginal Health Promotion Strategy 2022-2030 – Strengthening and promoting the Cultural Determinants of Health and Wellbeing* is another initiative aimed at influencing SA Government agencies' cultures and priorities in alignment with Priority Reform 3. Released in August 2022, this strategy aims to support and strengthen the Cultural Determinants of Health and Wellbeing, as defined in the Mayi Kuwayu National Study of Aboriginal and Torres Strait Islander Wellbeing:

- connection to Country
- Indigenous beliefs and knowledges
- Aboriginal language
- family, kinship and community
- cultural expression and continuity
- self-determination and leadership.

The Aboriginal Health Promotion Strategy was developed in consultation with the SA Aboriginal community in seven regions during 2021 and it identifies key themes that support better outcomes at the community level, which include:

- Aboriginal workforce development
- leadership and self determination
- language
- acknowledging the value, and importance, of Aboriginal knowledge
- addressing racism and promoting cultural safety.

In addition to the Aboriginal Health Promotion Strategy, the Action Plan 2022-2026 outlines four key action areas to deliver on the goals of the strategy, which includes:

- *Developing and delivering the Strengthening Our Culture Community Grants Program:* 11 ACCOs were successful recipients of a total of \$327,005 to deliver self-determined initiatives that strengthen the Cultural Determinants of Health.
- *Addressing Racism:* A joint approach to addressing racism in local sports, by engaging local Aboriginal communities and transforming the system around the SA sporting environment, to be culturally safe and free of racism.
- *Partnerships:* Developing formal partnerships with ACCOs to build capacity and sustainability in embedding and strengthening the Cultural Determinants of Health into locally designed programs that seek to achieve better health and wellbeing for Aboriginal people and communities.

Truth telling also supports the transformation of government services. As stated by the SA Government in its submission to *Review Paper 2: Proposed Approach and Invitation to Engage with the Review*, there is a need for:

- a shared understanding of Australia's true history, and government to support and facilitate truth telling
- an understanding of the history of colonisation and its intergenerational impact
- recognition of cultural loads and the often-invisible obligations for Aboriginal workforces
- understanding of Aboriginal cultural perspectives and incorporating and supporting these in everyday practice.

The SA Government has committed to implementing the Uluru Statement from the Heart in SA, commencing with the establishment of a First Nations Voice to Parliament. Once established, the First Nations Voice to Parliament will inform the design and process for efforts to implement a treaty and a truth-telling process.

## Information Request 4: Indigenous Data Sovereignty and Priority Reform 4

What are the substantive differences between the way Priority Reform 4 is currently described in the National Agreement on Closing the Gap and an explicit reference to Indigenous data sovereignty as the objective of Priority Reform 4?

If the Agreement had Indigenous data sovereignty as the explicit objective of Priority Reform 4, what would governments have to do differently compared to what they have already committed to?

There is a focus in the National Agreement on Government Parties sharing, agreeing to provide access to, and collecting, handling and reporting their data. This language may be interpreted by some as implying Government Parties remain the custodians of data, maintain ownership and control of data, and are responsible for making final decisions about the collection, access, management and use of data.

Indigenous Data Sovereignty may result in a change to this language to Government Parties providing Aboriginal organisations and communities with choice about what data is collected (which may include some exceptions such as information required by law or where such information is an essential part of a process (e.g., eligibility for a service)), as well as ownership, control and full access to all Aboriginal data.

While the National Agreement does not stipulate that Indigenous Data Sovereignty is an explicit objective of Priority Reform 4, this does not preclude Government Parties from progressing actions, processes and policies at the jurisdictional, regional and local levels which will support increased Indigenous Data Sovereignty.

In working to meet its commitments relating to Priority Reform 4, including delivery of the community data project in Adelaide's western suburbs, the SA Government is considering what Indigenous Data Sovereignty would involve. Considerations include:

- *Community Engagement*: Government working with community to build trust and identify community needs, concerns and priorities.
- *Accessibility and transparency*: Government working with community to enable open access to data which the community is comfortable sharing. Agreeing with community about who should be able to access data.
- *Building partnerships between community organisations and data experts*: Ensuring data reflects the experience of Aboriginal people and communities and can meet the needs of community.
- *Empowering communities*: Building data literacy and skills in the community.
- *Improving data collection*: Ensuring data is collected in a way which is suited to the local context, community preferences, needs and capabilities.
- Privacy, security and ethical considerations.

If Indigenous Data Sovereignty was to become an objective of Priority Reform 4, in addition to the considerations above, it's likely additional data collection and governance mechanisms would need to be established, as well as education across the public service on how to use and apply such principles in their day-to-day activities. It's also likely that a program to educate community and build community trust would be required.

## Information Request 5: Legislative and Policy Change to Support Priority Reform 4

What, if any, legislative or policy barriers are preventing governments from sharing data with Aboriginal and Torres Strait Islander people and organisations, or giving Aboriginal and Torres Strait Islander people more control over how data about them is governed?

What changes are needed to overcome these barriers, and what would be the costs and benefits of these changes?

The SA Government acknowledges that it holds a large amount of data which may, if shared, be of benefit to Aboriginal people and organisations.

The SA Government administers two frameworks for information sharing which balance the public benefit of sharing data against the need to ensure the safety and wellbeing of all South Australians.

In 2008, Information Sharing Guidelines (ISG) for promoting the safety and wellbeing of children, young people and their families were developed as part of the SA Government's Keeping Them Safe child protection reform agenda. In 2013, the scope of the ISG was broadened from its purely child protection focus, to include information sharing for all vulnerable people, including all adults irrespective of their status as parents or caregivers.

The ISG provide a mechanism for information sharing when it is believed a person is at risk of harm and adverse outcomes can be expected unless appropriate services are provided. Information may be shared about all people when there is a risk of harm to themselves or others. The level of risk of harm and how it impacts obtaining consent will determine whether information is shared with or without consent.

The ISG support a wide range of SA Government agencies and non-government organisations acting under a contract with the SA Government, including (but not limited to) those working in health, education, policing, youth justice, disability, housing, mental health, family violence, drug and alcohol services, ACCOs, multicultural services, aged care, correctional services, and investigations and screening units.

The ISG apply to people doing paid or volunteer work in these sectors who provide services partly or wholly to:

- children and young people
- families
- pregnant women and their unborn children
- adults.

The ISG do not apply to some service providers such as the Courts Administration Authority, the Crown Solicitor's Office, the Office of the Director of Public Prosecutions, the Legal Services Commission, and members and officers of courts and tribunals.

The *Public Sector (Data Sharing) Act 2016 (SA)* (PSDSA) enables public sector agencies to share their data with each other and with external entities where certain criteria are met. In contrast to the ISG, the PSDSA allows government to use the information held by agencies in secure, strategic and innovative ways that benefit the broader SA population, including Aboriginal people and organisations. It enables SA Government agencies to share data with each other and/or with other trusted entities or non-government organisations under the conditions of individual data sharing agreements. Before sharing data, all providers and recipients must apply the trusted access principles (also known as the Five Safes) to any proposed data initiative via a data sharing agreement. The trusted access principles are:

- *Safe projects*: The purpose for which data is to be shared and used must be appropriate.
- *Safe people*: The data recipient must be appropriate.
- *Safe data*: The data to be shared and used for a purpose must be appropriate for that purpose.
- *Safe settings*: The environment in which the data will be stored must be appropriate for that purpose.

- *Safe outputs*: The publication or disclosure of the results or work on the data must be appropriate.

Public sector agencies must only share their data if they are satisfied that the data recipient meets all the criteria of the trusted access principles.

Aside from the formal policy and legislative frameworks governing the sharing of data, there are other practical barriers which may also prevent governments from sharing data or giving Aboriginal people more control over how data about them is governed. The SA Government noted in its submission to *Review Paper 2: Proposed Approach and Invitation to Engage with the Review* that other barriers may include:

- the classification level of data being shared
- the quality and integrity of data
- privacy consideration of individuals in the data
- consistency regarding the collation of data across different government departments and levels of government
- ease of access to and understanding of the data
- understanding limitations regarding the use of data.

In addition, many SA Government agencies do not collect any data on specific Aboriginal Nations. This limits the SA Government's ability to share data with specific communities at this level.

The SA Government submission to *Review Paper 2: Proposed Approach and Invitation to Engage with the Review* also discussed that it is important shared access to data is accompanied by training and education about the use and analysis of data to meet the requirements of the trusted access principles and support the principle of equal access to knowledge. Capacity has to be built in ACCOs to articulate their data priorities and requirements, and government has to better identify the data assets it possesses across agencies.

Further, a shared understanding of the limitations regarding use of data is important, to ensure proper use of and reliance on the data as well as to understand where data collection improvements are needed. While data is important to inform decisions and assess results, a better understanding of the data, and improved information about communities and organisations is critical to supply the full context for decisions and assessments. For example, the quality and/or effectiveness of services is unlikely to be able to be assessed through data that states the number of people living in a community or the availability of services to the community.

Improving government's data collection on Aboriginal Nations would provide the ability to share information and analysis with community in the way community members identify. To achieve this would require, at a minimum, to add an option for Aboriginal people to identify their Nation(s) as an optional field in hard copy and digital forms across the public sector. It is anticipated this would be an expensive undertaking as all existing hard-copy forms would need modification, re-printing and re-dissemination, and all computer systems would need updates to include additional data elements. Appropriate governance and oversight mechanisms would be required, along with training for staff on any additional processes. In addition, it's highly likely a community education program would need to be developed and delivered to build community confidence that such data will only be used appropriately and ethically.

## Tracking Progress Towards Outcomes

### Draft Recommendation 1: Appointing an Organisation to Lead Data Development Under the Agreement

Responsibility for data development under the Agreement is currently split across multiple working groups and organisations, including the Productivity Commission. Without stronger data governance arrangements, there is a risk that the most important data to tracking progress under the Agreement will not be prioritised and developed.

**An organisation or entity with dedicated resourcing and staffing to lead data development should be appointed.** It should have the technical and cultural capability, resourcing and authority to lead this work and engage data custodians and Aboriginal and Torres Strait Islander organisations and communities in the development of appropriate solutions. There are many possible options for the organisation, including an independent research centre, government department, independent government agency, or a unit within a department or agency.

The chosen organisation's responsibilities should include leading work with parties to the Agreement to:

- develop a shared understanding and explicitly articulate **a conceptual logic underpinning the performance monitoring approach**. This should connect key reform actions and outputs under the Priority Reforms to the resulting intermediate outcomes intended to drive improvements in Aboriginal and Torres Strait Islander life outcomes. Intermediate outcomes should include common drivers of change across the socio-economic outcomes, where appropriate
- identify the most **critical indicators of change** under the Agreement and prioritise them for data development, following the conceptual logic
- determine the most **appropriate level of geographic data disaggregation** to hold jurisdictions to account for progress at a regional level, balancing community needs and data limitations
- coordinate and **develop solutions for indicators without data** with data custodians and Aboriginal and Torres Strait Islander organisations and communities.

Draft Recommendation 1 addresses the crucial topic of data development. While data development is progressing over time, there are still a number of socio-economic targets and indicators with gaps or a lack of available data, and the existing governance arrangements mean that there is no shared understanding of the approach and timeframes for resolving the gaps.

Appointing an organisation or entity with dedicated resourcing and staffing to lead this work has merit, and Draft Recommendation 1 is comprehensive in its consideration of the gap which needs to be filled and the potential responsibilities of the lead organisation or entity. However, Draft Recommendation 1 is silent about the timeframes and costs associated with this proposal. It is also silent on how the proposed organisation or entity might be funded. There may be significant annual operational costs associated with the proposed organisation or entity, and this organisation may be required over the long-term given the breadth and complexity of the responsibilities being proposed. The SA Government has not budgeted for costs associated with Closing the Gap data development work.

Given that PC has existing performance monitoring responsibilities under the National Agreement (i.e., the Dashboard, Annual Data Compilation Report and three-yearly review), consideration should be given to the benefits and risks associated with PC taking on this leadership role. This work should include consideration of PC's existing functions under the National Agreement and an analysis of additional functions and responsibilities which would be required for it to lead data development.

If implemented, there may be value in this organisation or entity regularly informing the Data and Digital Ministers Meeting on progress.

Irrespective of the approach, it is critical that the data development approach which is adopted include a governance model which supports ongoing input by Commonwealth, state and territory government data custodians, as well as Aboriginal organisations and communities. The data governance arrangements must also reflect that each state and territory government has lead responsibility for working directly with its Aboriginal community-controlled sector on data development and data sharing practices. The views of the SA Government in partnership with SAACCON must be at the centre of any national decision making where those decisions will have an impact on SA government agencies, individuals and/or communities.

## Information Request 6: Characteristics of the Organisation to Lead Data Development under the Agreement

If an organisation (such as an independent research centre, government department, independent government agency or a unit within a department or agency) were appointed to lead data development work to track progress under the Agreement (as per draft recommendation 1):

- What governance structure would ensure it has the authority and capability to deliver?
- What capabilities, skills or attributes should the organisation's leadership and staff have?
- How might it apply principles of Indigenous data sovereignty and governance in data development?

If an organisation were appointed to lead data development work under the National Agreement consistent with Draft Recommendation 1, the governance structure would need to have the trust and confidence of Aboriginal people as well as government. The governance structure would also likely benefit from strong connections to other social and economic governance bodies in areas such as disability, equality, education and child wellbeing. As discussed above, the governance structure must also reflect that each state and territory government has lead responsibility for working directly with its Aboriginal community-controlled sector on data development and data sharing practices. It would need to be equipped to work collaboratively with state and territory governments to ensure any outputs reflect unique jurisdictional perspectives and requirements.

The capabilities, skills or attributes of the organisation's leadership and staff should include a mix of policy and data experience, as this is likely to yield better results than just one or the other. Such capability should include:

- deep cultural knowledge
- deep policy knowledge
- strong relationships with key agencies/custodians of Aboriginal data across all relevant government sectors
- strong knowledge of the legal authorising frameworks for data sharing
- a way to evaluate and monitor performance
- diverse representation encompassing other relevant disciplines (e.g., disability, equality, education, child wellbeing)
- intimate knowledge of Closing the Gap across multiple sectors.

The organisation could apply principles of Indigenous Data Sovereignty and governance in data development by considering and/or applying the following:

- developing guidance to assist government to improve its data collection approaches to include data that community considers important in a way that can be easily reported to community
- designing mechanisms and/or frameworks for government to provide data to support community decision making on their important issues
- developing frameworks to support secure, safe and ethical sharing and collaboration on data between government and community for approved purposes
- building capacity in communities to assist them with interpreting data to tell their own stories
- supporting all levels of government to apply Indigenous data sovereignty principles.

## Information Request 7: Performance Reporting Tools – Dashboard and Annual Data Compilation Report

The Commission is seeking further information on how the performance reporting tools in the Agreement (namely the dashboard and annual data compilation report (ADCR)) are currently being used and how they could be improved.

- Who are the intended audiences for the dashboard and ADCR?
- How well do the dashboard and ADCR meet the needs of their intended audiences?
- Are there features or types of supporting information that should be included in the dashboard or ADCR to support the use and interpretation of the data?
- What information should the Agreement's performance reporting focus on providing relative to other reporting frameworks and tools (for example, the Aboriginal and Torres Strait Islander Health Performance Framework)?
- Is there a need for additional reporting tools to support the intended purposes of monitoring performance against the Agreement?

The intended audience for the Dashboard and Annual Data Compilation Report (ADCR) is broad, and includes individuals, communities, ACCOs, the not-for-profit sector, educators, students, researchers and government organisations.

In terms of accessibility, broad feedback from government officers has indicated that the ADCR is easier to understand than the Dashboard, particularly for those individuals who do not possess a thorough knowledge of the Closing the Gap commitments or have data and/or research expertise. In contrast, the Dashboard may provide a deeper understanding of the available data on the targets and indicators, particularly through access to the Material for Download. Other feedback includes:

- The Dashboard could be updated to make it easier to understand at a glance any data anomalies or gaps. For example, where data demonstrates above 100%, or why data is not available.
- There may be benefit in identifying whether jurisdictions are 'on track' using state and territory trajectories.

The SA Government uses the Dashboard and ADCR for a range of internal purposes, including informing portfolio Ministers and agencies of SA's progress against the National Agreement. The performance reporting tools are also utilised to assist requests for information, periodic reporting and updates on action areas.

## Information Request 8: Quality of Implementation Plans and Annual Reports

Clauses 108 and 118 of the Agreement include clear criteria on how implementation plans and annual reports should be prepared and what they should include. This includes that implementation plans:

- are whole-of-government plans
- are developed and delivered in partnership with Aboriginal and Torres Strait Islander partners
- set out how existing policies and programs will be aligned to the Agreement
- set out actions to achieve the Priority Reforms, socio-economic outcomes and targets
- include information on funding and timeframes for actions.

The plans must also demonstrate the parties' commitment to undertake all actions in a way that takes full account of and promotes the cultures of Aboriginal and Torres Strait Islander people.

Annual reports should demonstrate how efforts, investment and actions are aligned and support the achievement of Closing the Gap goals.

Jurisdictions are not consistently preparing implementation plans and annual reports that meet these criteria. Current implementation plans list hundreds of piecemeal actions with, for the most part, no explanation of how the agreed actions are expected to result in the desired change. Annual reports do not include all the actions in implementation plans so there is no way to track progress or judge success or failure.

The Commission is seeking further information on how to improve the quality of governments' implementation plans and annual reports, and what is needed for governments to prepare the plans and reports according to the agreed criteria. Could this include a function for an external group (such as the independent mechanism) to assess adherence to the criteria?

The SA Government is considering improvements to the quality of its Implementation Plan and future Annual Reports. As discussed earlier in this report, the SA Government is working in partnership with SAACCON to negotiate schedules to the Partnership Agreement. These schedules will contain actions agreed by the SA Government and SAACCON which are designed to achieve significant changes in the way government works with the Aboriginal community-controlled sector and Aboriginal South Australians. Once the schedule negotiations are complete, the SA Government and SAACCON will commence work to develop a refreshed SA Implementation Plan which will be informed by the schedules. The refreshed Implementation Plan will build on the strengths of the existing Implementation Plan, including by providing an implementation status against key actions to allow progress to be tracked over time.

Owing to the work already underway, the establishment of additional accountability measures to assess adherence to Clauses 108 and 118 of the National Agreement may not be necessary within the SA context. The SA Government and SAACCON will continue to engage in open and productive discussions about how the Implementation Plan and Annual Reports can evolve over time to better meet the intent of the National Agreement, and work together to implement the improvements that have been identified to date.

## A Growing Role for Aboriginal and Torres Strait Islander Bodies in Holding Governments to Account

### Information Request 9: Independent Mechanism in the Broader Landscape

The Agreement provides for an independent mechanism that will drive accountability by supporting, monitoring and reporting on governments' transformations. But new and emerging Aboriginal and Torres Strait Islander bodies (such as the proposed Voice to the Australian Parliament and Government, state and territory representative bodies, a Voice to State Parliaments, Treaty processes, and justice commissions) will (or could) also have a role to play in accountability more broadly. With this in mind the Commission is seeking further information on the future role and functions of the independent mechanism.

- What are the essential features of the independent mechanism?
- What levers should the independent mechanism have to enable it to hold governments to account?
- Should the independent mechanism have a broader role – beyond Priority Reform 3 – so that it can drive accountability for progress towards all of the Priority Reforms in the Agreement?
- How could the independent mechanism improve the timeliness of accountability?
- How should the independent mechanism be situated with respect to the new and emerging Aboriginal and Torres Strait Islander bodies (such as the proposed Voice to the Australian Parliament and Government, state and territory representative bodies, Voices to State Parliaments, treaty processes, and justice commissions)? Is a stand-alone independent mechanism still required?
- What role should the independent mechanism play in reviewing and/or approving Closing the Gap implementation plans and annual reports?

A mechanism that will support, monitor and report on the transformation of the SA Government, as currently envisaged by Clause 67 of the National Agreement, is an important but complex initiative to implement.

These complexities, which include the need to consider how the independent mechanism might duplicate, replace and/or interact with existing and future legislated and non-legislated entities and how it will interact with the roles and functions of SA's existing partners on Closing the Gap, may play a role in the progress jurisdictions are making towards this commitment. These complexities, and therefore progress towards the implementation of an independent mechanism, may be exacerbated if its role was to be broadened. This is especially so given the accountability measures that already exist under the Closing the Gap architecture, including the role and function of Joint Council, annual reporting, and in SA, the new First Nations Voice to Parliament.

The SA Government is committed to exploring the essential features of, and suitable models for, the independent mechanism, in partnership with SAACCON and the SA First Nations Voice. The outcomes of these conversations cannot be pre-empted and will therefore not be known until 2024 after the SA First Nations Voice has been elected. However, there is considerable scope for the independent mechanism to support the implementation of the transformation elements of the National Agreement, and the SA Government is looking forward to the positive outcomes which can be realised through this new way of working.

The approach adopted by SA will also take into consideration the other concurrent streams of work at the national level, including by Partnership Working Group, Joint Council and ANZSOG. SA has also welcomed the opportunity to participate in the Independent Mechanism/s National Working Group, including its work to review and consider the research and consideration of national consistency.

In determining the most suitable model for an independent mechanism and its scope in SA, necessarily, the views of SAACCON, the SA First Nations Voice and the SA Government will take primacy.

## **Assigning Clearer Responsibilities and Accountability for Driving Action within the Public Sector**

### **Draft Recommendation 2: Designating a Senior Leader or Leadership Group to Drive Jurisdictional-Wide Change and Information Request 10: Senior Leader or Leadership Group to Drive Change in the Public Sector**

In each jurisdiction, a senior leader (such as the Secretary of the Prime Minister's, Premier's or Chief Minister's department, or the Public Sector Commissioner) or a leadership group with a wide span of influence (such as the Secretaries Board or another senior leadership group) should be tasked with promoting and embedding changes to public sector systems and culture. The objective of this task would be to identify and eliminate institutional racism, and to improve cultural capability and relationships with Aboriginal and Torres Strait Islander people, throughout the public sector.

At a minimum, this should include supporting the change with:

- continuous, consistent communication
- role modelling and reinforcement
- encouragement and support for desired behaviours
- relevant tools and skills-building.

Which senior leader or leadership group should be tasked with promoting and embedding changes to public sector systems and culture, in order to improve cultural capability and relationships with Aboriginal and Torres Strait Islander people and to eliminate institutional racism throughout the public sector?

- What tasks should they be assigned (see draft recommendation 2)?
- What would be the advantages and disadvantages of your preferred leader or leadership group?
- What particular skills or attributes would they need in order to improve cultural capability and relationships with Aboriginal and Torres Strait Islander people throughout the public sector?
- How would the role, powers and functions of this leader or leadership group need to change in order for them to succeed in this specific role?
- How could this leader or leadership group drive accountability right through the public sector, including operationally on the ground?

Promoting and embedding change in a consistent, coordinated way can support jurisdiction-wide change. As set out earlier in this submission, SA has focused its early attention on forming the essential framework needed to support change. This has included building an open and honest relationship with SAACCON and establishing an agreed model for governance arrangements.

The model which best supports the promotion of transformational change to public sector systems and cultures will vary from jurisdiction to jurisdiction. Decisions about whether an individual leader or a leadership group is best placed to drive change, as well as the scope of the role and functions, will need to suit the jurisdictional context and complement existing governance structures. These decisions may also need to take into account the unique challenges and/or characteristics of the different sectors in each jurisdiction (eg health, education, justice, mining, etc) and the scope of cultural and operational change which might be required within each of these sectors to support implementation of the National Agreement.

The SA Partnership Committee on Closing the Gap (the Partnership Committee) is responsible for leading SA's implementation of the National Agreement. Its functions include monitoring the implementation of the priority reforms by government agencies, and escalating risks to embedding the priority reforms as required. It is comprised of six SAACCON members and six members from the SA Government, which supports implementation from within government while also ensuring key decisions relating to the National Agreement are informed by the voices and perspectives of Aboriginal people.

There are also high-level forums within government which provide leadership over Closing the Gap. These governance groups have a broad span of influence across government while also possessing agency specific expertise.

The Senior Leadership Council (SLC) is comprised Chief Executives from SA Government agencies. While the SLC's remit is not limited to Closing the Gap related matters, its members consider matters which are of strategic importance to all SA Government agencies. This includes matters relating to Closing the Gap implementation and monitoring as required. It can receive advice from the Partnership Committee, as well as the Senior Officials Working Group on Closing the Gap (SOWG CtG).

Responsibility for Closing the Gap is everyone's business and transformative implementation is required across all state government agencies. As such, in SA, responsibility for promoting and embedding the required changes to systems and culture throughout the public sector is shared across a small number of key leadership groups.

The SOWG CtG is made up of executive level officials from all SA Government agencies. Key functions of the SOWG CtG include:

- ensuring coordinated implementation of the National Agreement, SA Implementation Plan and Partnership Agreement across government
- sharing information on Closing the Gap governance forums and groups, both locally and nationally
- monitoring progress in implementing the National Agreement, including the priority reforms
- considering and providing advice on matters raised by the Partnership Committee
- providing advice to SLC on Closing the Gap deliverables as needed.

This across government forum ensures a shared understanding of what is required to implement the National Agreement, with officials being of sufficient seniority to be able to influence action within their respective agencies.

The Attorney-General's Department holds responsibility for delivery of SA's commitments under the National Agreement and the Aboriginal Affairs and Reconciliation division (AGD-AAR) is the lead agency for coordination of Closing the Gap in SA, led by the Executive Director – Aboriginal Affairs and Reconciliation. The CE of the Attorney-General's Department is co-Chair of the Partnership Committee alongside SAACCON's Lead Convenor. The Executive Director is a member of the Partnership Committee and is co-chair of the SOWG CtG. AGD-AAR represents the SA Government nationally on matters relating to Closing the Gap, coordinates reporting and monitors progress across the National Agreement. AGD-AAR's mandate includes ensuring the National Agreement is successfully implemented in SA, and it has a deep knowledge of Aboriginal perspectives as well as strong links with the community.

Collectively, these functions ensure that government is fulfilling its Closing the Gap responsibilities, and all public sector parties have knowledge of and understands their roles and responsibility to implement the National Agreement.

## Draft Recommendation 3: Embed Responsibility for Improving Cultural Capability and Relationships with Aboriginal and Torres Strait Islander People into Public Sector Employment Requirements

The Queensland Government has recently implemented legislation which requires public sector CEOs, executives and employees to enhance their cultural capability and support the state government in reframing its relationship with Aboriginal peoples and Torres Strait Islander peoples.

The Australian, territory and other state governments should ensure that the employment requirements of all public sector CEOs, executives and employees require them to continually demonstrate how they have sought to:

- improve their cultural capability
- develop relationships with Aboriginal and Torres Strait Islander people
- identify and eliminate institutional racism
- support the principles outlined in the National Agreement on Closing the Gap.

These requirements should flow through into the performance agreements and KPIs of CEOs, executives and employees, with the strongest requirements placed on CEOs and executives.

The implementation of Draft Recommendation 3 in SA would require whole of government consultation and detailed review of the relevant legislative and policy framework in SA. It may also require legislative change and amendment to employment related instruments and guides.

Earlier in this submission, there was discussion of the various actions being implemented by the SA Government to enhance the cultural capability of public sector employees and to address institutional racism.

In addition to these specific actions, the *Public Sector Act 2009 (SA) (Public Sector Act)*, Code of Ethics and Public Sector Values promote a high performing public sector which is accountable, transparent, ethical and demonstrates professional integrity. Many of the ethical behaviours and values set out within the legislative and policy framework governing public sector employees align with the scope of Draft Recommendation 3.

Section 6 of the *Public Sector Act* states that all public sector employees must observe the public sector Code of Conduct. The Code of Ethics for the SA Public sector is the Code of Conduct for the purposes of the Public Sector Act. All employees are bound by the Code of Ethics, regardless of the nature or level of their employment.

The Code of Ethics set out the four foundations of the public service, which are diversity, impartiality, accountability and democracy. On diversity, it states:

The SA public sector should be as diverse as the community it serves. The views and experiences of all people should be respected, regardless of nationality, gender, cultural or social background, sexuality, religion, age, or physical or intellectual ability.

The professional conduct standards are the disciplinary provisions of the Code of Conduct, and contravention or failure to comply constitutes misconduct as defined under the *Public Sector Act*. This incorporates standards of conduct regarding professional and courteous behaviour, including that public sector employees will at all times treat other persons with respect and courtesy.

All public sector employees should also endeavour to embody the SA public sector values at work, which include the following:

- *Respect*: We value every individual. As an organisation, this can mean educating employees about diversity's role in strengthening our workplaces and communities. As an individual, it can mean appreciating openly that people have different backgrounds, circumstances, needs and capabilities.
- *Service*: We proudly service the community and the SA Government. As an organisation, this can mean prioritising the diverse needs of the community in the design and delivery of services and establishing service standards that apply to all customers. As an individual, it can mean serving people courteously, fairly and effectively.
- *Collaboration and engagement*: We create solutions together. As an organisation, this can mean building systems and processes that strengthen partnerships with all sectors of the community. As an individual, it can mean involving people in decisions that affect them.

These values should guide the behaviours and practices that apply to all employees, regardless of position, expertise or location.

In addition, SA public sector chief executives already have KPIs in their performance agreements on meeting the Closing the Gap targets. The SA Government could consider aligning these requirements with PC's recommendation, and this could be considered as part of negotiations with SAACCON on schedules to the Partnership Agreement.

## Draft Recommendation 4: Central Agencies Leading Changes to Cabinet, Budget, Funding and Contracting Processes

The Australian, state and territory governments should ensure that whole-of-government processes actively drive changes to deliver the outcomes of the National Agreement on Closing the Gap.

- At a minimum, this will require central agencies to review Cabinet, Budget, funding and contracting arrangements to ensure that they support the Agreement and its Priority Reforms.
- In many cases, this will require changes to Cabinet, Budget, funding and contracting arrangements to better support the Agreement, as well as guidance for agencies about best-practice approaches.

The SA Government agrees that central agencies have a critical role to play in ensuring that whole of government processes actively drive change to deliver the outcomes of the National Agreement.

Central agencies in SA are progressing actions which are consistent with Draft Recommendation 4, including:

- The Department of Treasury and Finance is reviewing whole-of-government grant and contracting policy and guidance in consultation with SAACCON and ACCOs. This work was discussed in greater detail earlier in this submission.
- The Department of the Premier and Cabinet will review how Closing the Gap policy impact is reviewed in Cabinet processes, including appropriate Cabinet Committee oversight. It will update policy guidance to support policy officers to identify and evaluate Closing the Gap impact on relevant policy submissions.

## Information Request 11: Sector-Specific Accountability Mechanisms

The Commission is seeking further information on how well sector-specific accountability mechanisms (such as sector regulators, complaints commissioners and ombudsmen) are working for Aboriginal and Torres Islander people.

- What makes these sector-specific accountability mechanisms effective or ineffective?
- How could they contribute to enhancing accountability for outcomes under the National Agreement on Closing the Gap?
- How can dedicated Aboriginal and Torres Strait Islander accountability mechanisms (such as Aboriginal and Torres Strait Islander Children's Commissioner roles) help to improve accountability to Aboriginal and Torres Strait Islander people?

There are a range of government authorities and regulators in SA designed to provide accountability in particular sectors, including:

- *South Australian Ombudsman*: An independent officer who handles complaints about SA Government agencies and councils.
- *Commissioner for Public Sector Employment*: The Commissioner for Public Sector Employment holds a statutory role under the *Public Sector Act*. The *Public Sector Act* outlines principles and guidelines to improve and uphold public sector performance. It is the Commissioner's role to support implementation of these across government.
- *Auditor-General's Department*: An independent body which aims to ensure SA Government accountability and transparency.
- *Equal Opportunity South Australia*: An independent statutory body that supports the Commissioner for Equal Opportunity. It is responsible for promoting equality of opportunity in SA and has a legislative responsibility to implement the *Equal Opportunity Act 1984* (SA).
- *Office for Public Integrity*: Receives complaints and reports about corruption, misconduct and maladministration in SA's public administration and South Australia Police.

There are also several dedicated Aboriginal mechanisms in SA.

The Commissioner for Aboriginal Children and Young People is established under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (SA). The Commissioner is empowered to undertake a range of functions related to Aboriginal children and young people and is the only independent body created solely to promote the rights, development and wellbeing of Aboriginal children and young people within SA, at a systemic level. This includes developing culturally safe and informed strategies and promoting Aboriginal voice with regard for the safety and wellbeing of all Aboriginal children and young people.

The Chief Aboriginal Health Officer provides system leadership on Aboriginal Health at a state and national level including across other state and national government departments and non-government partners. The Chief Aboriginal Health Officer engages community and collaborates with partners in system wide policy and planning to improve health outcomes for Aboriginal people and communities.

In SA, the scope and role of the independent mechanism will need to be considered alongside these existing mechanisms, including how the independent mechanisms might duplicate, replace and/or interact with these existing entities. Informed by the consultation and engagement work led by the Commissioner for First Nations Voice, the SA First Nations Voice to Parliament will also have an essential role in providing Aboriginal people with a mechanism for holding government to account in a culturally appropriate and safe way. As discussed earlier in this submission, the interaction of existing and new accountability functions will not be known until after the SA First Nations Voice to Parliament has been elected in 2024.

# Improving Transparency about Actions Taken to Implement the Agreement

## Draft Recommendation 5: Include a Statement on Closing the Gap in Government Agencies' Annual Reports

The Australian, state and territory governments each have legislation or rules that require government agencies to prepare annual reports containing certain specified information. They should amend the relevant legislation or rules to include a requirement for every agency to include a statement in its annual report on the substantive activities it undertook to implement the Agreement's Priority Reforms and the demonstrated outcomes of those activities.

In SA, requirements imposed on SA Government agencies and entities in the General Government Sector (approximately 100 entities) for annual reporting are set out in the *Public Sector Act*, Public Sector Regulations 2010 (SA) (Public Sector Regulations) and Premier and Cabinet Circular 013 – Annual Reporting Requirements (PC013).

Section 12(7) of the *Public Sector Act* requires that each SA Government agency must, once in each year, present a report on the agency's operations to the agency's minister. The report must include accurate, comprehensive information and deal with all significant issues affecting the agency. Annual report content must be limited to:

- statutory annual reporting requirements
- reporting requested by the Minister(s)
- reporting directed by the Premier in PC013.

The annual report is presented to the Minister and a copy of the annual report must be laid before each House of Parliament.

Regulation 7 of the Public Sector Regulations sets out the specific requirements of SA Government agency annual reports. These requirements must include the provision of information relating to:

- The functions and objectives of the agency
- The agency's operations and initiatives (including an assessment of their effectiveness and efficiency)
- The agency's strategic plans and the relationship of the plans to SA Government objectives.

PC013 further sets out the requirements for annual reporting and is to be regarded as a direction of the Premier under the *Public Sector Act*. Accordingly, the details in PC013 are mandated for all SA Government agencies. Pursuant to PC013, agencies are to use the streamlined annual report template which includes, amongst other things, a section on the agency's performance (aligned to the agency's strategic plan).

PC013 states that all statutory reporting obligations must be met in annual reports. Other information not required for statutory reporting is not to be included in annual reports, instead, placed on the agency's website or on the Data SA website where it is more searchable and accessible.

While further work would be required by the SA Government to understand the legislative constraints, it is possible Draft Recommendation 5 may be implemented via amendment to PC013. However, a review and significant changes to PC013 and the SA Government annual report template would be needed. This would require whole of government consultation and Cabinet approval. SA Government agencies would also require sufficient lead time to prepare information required as a result of changes to the subsequent annual report.

As PC013 mandates the SA Government annual report template for all SA Government agencies, consideration would need to be given on how to best 'limit' reporting to the 'limited agencies' without causing confusion to other reporting entities.

The SA Government queries the potential effectiveness of Draft Recommendation 5, particularly whether it would lead to a risk in decreased transparency and accountability of Government Parties. SA Government annual reports are presented to ministers, and are accessible on the relevant agency's website. The annual reports are not monitored, nor is data within these reports collated collectively for the purpose of Clause 118 of the National Agreement.

Clause 118 of the National Agreement states that Government Parties are required to develop and publish an annual report detailing progress on both the National Agreement and jurisdictional implementation plans. This includes information on efforts to implement the National Agreement's four priority reforms. While the annual report is a whole of government report, considerable time and effort is undertaken in the development and drafting phases to collect and compile information from individual agencies on efforts to implement the National Agreement. This includes collection of information on:

- agency progress against each of the Priority Reforms
- agency progress against agency-specific actions contained in SA's Implementation Plan.

The Annual Report is then drafted based on the information provided.

Currently all jurisdictions and parties to the National Agreement table their annual reports, and they are accessible via the party's websites and centrally via the [closing the gap.sa.gov.au/annual reports](https://closingthegap.sa.gov.au/annual-reports) page. The current process ensures one report represents SA's progress of policies and programs that are specifically tied to key outcomes of the National Agreement (rather than the proposed approach of several individual agency annual reports which include the agencies' operations, structure, other agency achievements and statutory reporting).

As the 'statement' proposed by Draft Recommendation 5 is in addition to the central SA Government annual report on progress under the National Agreement, inclusion of a statement in all SA Government annual reports would be a duplication of data (unless an outcome is included by an agency if a Closing the Gap priority is committed to in the agency's strategic plan). There is also a risk that by requiring additional, separate reporting processes via agency annual reports, Government Parties will expend further time and effort on administrative tasks rather than on the delivery of actions and outputs required to deliver the priority reforms and close the gap.

The SA Government suggests that the intent of Draft Recommendation 5 may be better achieved through ongoing improvement to the annual reporting process required by the National Agreement. For example, the SA Government and SAACCON are having open, partnered and productive discussions about how the annual report may be strengthened in future years. It is envisaged that over time, the annual report will be increasingly focused on actions that are substantive and critical to achieving the National Agreement outcomes, and will provide outcome-based reporting.

## Draft Recommendation 6: Publish all the Documents Developed under the Agreement

To improve transparency and make it easier to assess progress, the Australian, state and territory governments should make public all of the outputs that are developed under the Agreement. This includes:

- partnership stocktakes
- partnership agreements
- expenditure reviews
- evaluations.

The publication of all documents developed under the National Agreement may be a relatively simple approach for achieving increased transparency. However, Draft Recommendation 6 should be updated to provide that the recommendation for governments to publish documents is subject to any privacy and/or confidentiality considerations. Governments must be afforded the discretion to determine the suitability of documents for public release, subject to these considerations.

The SA Government has already published key documents developed under the National Agreement. This includes SA's Implementation Plan, SA's Annual Report 2021-22 and the Partnership Agreement between SAACCON and the SA Government. The SA Government will soon publish its Expenditure Review Report, which is on track to be publicly released over coming months.