



North Australian Aboriginal Justice Agency

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18 December 2019

NT Children study

Productivity Commission
Locked Bag 2, Collins St
East Melbourne VIC 8003

By email: nt.children@pc.gov.au

Dear Commissioners,

NAAJA response to Productivity Commission Draft Report on Expenditure on Children in the Northern Territory

We thank you for the opportunity to comment on the above Draft Report, and for your consideration of the substantive NAAJA Submission to this Study.

In the context of extremely high levels of disadvantage and unmet need within Aboriginal communities in the Northern Territory, we cannot afford for any resources to go to waste. Decisions about allocation of Government funding need to be well informed and evidence based, so that the limited resources available can be used their maximum potential. For these reasons we welcome the robust Study of the Commission, and look forward to seeing a revised approach to funding decisions that will support a greater practical impact for Aboriginal people on the ground.

In light of the detailed submission already provided by NAAJA, we have taken a targeted approach in relation to providing feedback on the Draft Report. We note that some of the Commission's recommendations relate to the potential role of the Children and Families Tripartite Forum in providing advice to Government about the funding of services and programs. NAAJA will participate in discussions on that proposal with the other members of the Tripartite Forum in that setting. For the present purposes, we will simply highlight that if such an advisory role is to be performed with the rigour and critical analysis required, there will need to be specific resourcing to support this.

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The Commission made reference to the numerous grants received by NAAJA for our delivery of legal services.¹ NAAJA agrees that the maintenance and administration of numerous funding agreements can involve significant staff time and resources. In our view, the multiple funding streams are also indicative of the high level of need amongst our clients and the importance of legal services being appropriately funded. In March 2019, President of the Law Council of Australia Arthur Moses SC commented that “legal assistance funding in Australia is abysmal and in need of urgent review. Some of our most vulnerable people are slipping through the cracks... At least \$310 million a year is needed to provide adequate funding for Legal Aid Commissions, community legal centres, Aboriginal and Torres Strait Islander legal services and family violence prevention legal services.”² NAAJA supports this call for immediate investment in legal services and cannot overstate the urgency of this situation.

In addition to these broader comments we seek to raise the following points for your consideration in response to key recommendations, summarised as follows:

Recommendation 6.1: Development of community plans, driven by Commonwealth and NT Governments and in collaboration with each community to identify and prioritise areas of need

NAAJA is concerned by the premise of a community plan being ‘driven’ by the Commonwealth or NT Government. A genuine community plan should be community driven. Whilst Government could provide some support in relation to the facilitation of grass-roots discussions if required, the plan would need to be framed around community concerns, strengths, and priorities if it is to be effectively used as a platform for service planning. We note that recent consultation has occurred in some communities in connection with the Local Decision Making and Aboriginal Justice Agreement initiatives being progressed by the Northern Territory Government. Due to the level of consultation fatigue experienced by some Aboriginal community members, it is important that recent plans are taken into account to avoid reinventing the wheel if constructive discussions have already been undertaken.

If any renewed community plans are to be undertaken, it may also be worth considering whether communities require access to data or other information so as to formulate plans and

¹ Productivity Commission Draft Report Overview, p 12; and full Draft Report of the Productivity Commission, p87

² Law Council of Australia, ‘Lives are being destroyed’ – legal assistance funding needs urgent review, huge budget boost, media release 7 March 2019, accessed at <https://www.lawcouncil.asn.au/media/media-releases/lives-are-being-destroyed-legal-assistance-funding-needs-urgent-review-huge-budget-boost>



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priorities for their own local community through a justice reinvestment lens or child protection focus if they wish to take this approach. The provision of such information could include, for example, the key driving factors contributing to imprisonment of Aboriginal youth or care and protection matters and child removal.

Recommendations 7.1 and 7.3: Transition to longer term funding contracts (minimum 7 years)

NAAJA is of the view that a balancing act needs to occur in terms of supporting consistency and longevity of effective service delivery, but not ‘locking out’ Aboriginal Community Controlled Organisations from being an economic participant in providing services and jobs to their own communities where they are best placed to do so. We note that the Commission has acknowledged this risk and discussed potential funding agreements having partnership and transition arrangements embedded in them to provide a buffer against this.

NAAJA has observed that the concept of ‘partnership’ can vary greatly amongst organisations. Where there is a partnership between a mainstream NGO and an Aboriginal organisation for the delivery of services to Aboriginal people, it is essential that these are meaningful partnerships that are not token and that Aboriginal organisations are the lead agency. We note that the Aboriginal Peak Organisations of the Northern Territory (APO NT) has published a list of Partnership Principles, to provide guidance in this regard. It would be useful to explore ways of specifically embedding these principles in Government funding and procurement processes so that the requirements of a genuine partnership can be further particularised.

Recommendation 7.1: Funding contracts should take account of the full costs of service provision

As an organisation that is familiar with the challenges of providing legal services to Aboriginal people in remote geographic areas and Aboriginal language speakers in both urban and remote locations, NAAJA supports this recommendation. Culturally appropriate, accessible service delivery must be enabled through appropriate costing that recognises the resource intensive nature of this work. For example, the different resources and levels of need in affording equal access to justice when providing services to an English-speaking client in an urban location as opposed to a non-English speaking client in a remote setting must be recognised.

This is also true in the context of the National Single Mechanism that is intended to encompass the funding arrangements of both Aboriginal Legal Services and mainstream Legal Aid providers. NAAJA’s preference, and the approach that we believe would best meet the needs

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of our clients, would be for appropriate funding to be provided through the Indigenous Legal Assistance Program, administered by the Commonwealth Government.

Recommendation 8.1: Embed monitoring and evaluation in funding contracts

NAAJA would support embedding program monitoring and evaluation to be included in funding contracts, so that the effectiveness of service delivery can be assessed and opportunities for reflective practice and innovative approaches identified. It is essential that monitoring and evaluation occurs in an appropriate way. If the service is being provided to Aboriginal young people or families, Aboriginal young people and their families must be actively engaged in providing feedback and have a voice about the services being delivered to them. It must be noted that program evaluation in the Aboriginal community context can be more challenging than other contexts, and needs to be resourced properly and validated through the use of Aboriginal cultural brokers.

Implementation issues

NAAJA notes that the Commission has turned its mind to the issue of how to mitigate service disruption to communities during any transitional period that may follow from a change in funding structure. It is crucial that this is carefully considered, given the high vulnerability of some service users and the need to avoid any adverse impact on them. We also note that community based Aboriginal organisations have previously been adversely impacted by changes to Government funding structures, for example as a result of the initial Indigenous Advancement Strategy rollout. It is important that reforms to government funding structures are clearly communicated to the public and accompanied by broad awareness raising activities across urban and remote settings, to avoid further disadvantage from occurring.

We thank you for considering our further feedback. Please do not hesitate to contact us should you wish to have further discussion about any of the issues raised.

Yours faithfully,

Priscilla Atkins

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