



Children's Ground

Submission for 'Productivity Commission Closing the Gap Review'

"Nothing about us without us."

William Tilmouth, Chair of the Board, Children's Ground, 2017

Submitted: 16 October 2023

Submission relevance

Children's Ground commends the Australian Government on undertaking this critically important Productivity Commission to review the progress made within the four Priority Reform outcome areas of the Closing the Gap national agreement. We appreciate and are pleased to have the opportunity to contribute to this nationally important review and work.

This Productivity Commission is particularly relevant to Children's Ground because as an organisation we exist as a First Nations controlled and led organisation where First Nations people in communities are designing, governing, delivering and evaluating systems reform in five key areas: Community Governance; Local First Nations Workforce; Integrated Services with culturally and western based delivery; Evidence; and Collective Investment in outcomes, rather than outputs alone. We are monitoring and evaluating the impact of the Children's Ground Approach (system reform) through a longitudinal evaluation over 25 years – monitoring progress indicators over the short, medium and long-term.

This Productivity Commission asks for contributions to systems reform within government, that also need to expand across all sectors working with and being led by First Nations people. As a contribution to this Productivity Commission, we are pleased to share our experiences and evidence about how First Nations communities are designing and leading their solutions to Closing the Gap through reform in services, systems and principles of practice.

Children's Ground responses to relevant Information Requests

Information Request 1: Effectiveness of 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?*

1. Adequacy of Support Structures for Participation

- Adequate support structures are vital to enable the effective participation of First Nations people and organizations.
- Implementing First Nations governance designed engagement strategies that consider diverse First Nations cultural contexts, languages, and communication styles is crucial. However this currently does not exist. Representation and selection is not transparent and there is a lack of community elected representatives
- Participation and accountability would be improved by recognition that the Coalition of the Peaks is not a proxy for the First Nations governance of our over 300 Nations that are governed through our law that comes from the land. The current representation comes through western designed organisations, committees and positions that are valued from a western structural framework. There is an absence of Elders, community leaders, remote

and rural representation and input. There is no accountability mechanism back to the grass roots.

- Establishing clear feedback mechanisms and accessible platforms for ongoing input from broader community representatives. This will ensure that participants have channels to voice concerns, suggestions, and feedback about the policy development and implementation processes.
- Review the diversity of voices and create a mechanism of rotation so that a variety of voices can be heard. Audit which First Nations people sit on the range of Policy Partnerships and whether there is diverse leadership and opportunities for First peoples across the country.
- Cultural accountability and the role of elders is not adequately measured in these partnerships. Elders are the holders of First Nations knowledge systems and it is unclear where their place is in this structure and how they are valued and honoured. Elders can not be determined by non First Nations people. They are determined by our people through our systems of governance.
- Use First Nations organisations to address and support genuine agency, cultural protocols and language diversity issues to ensure effective support structures to government.

2. Building Accountability into Structure and Governance

- Transparency in decision-making processes.
- Requiring policy partnerships to submit regular progress reports, including updates on key decisions, targets, achievements, challenges, and future plans will enhance accountability. These reports should be publicly accessible to ensure transparency.
- Implementing external evaluations by independent bodies will assist with the partnership's effectiveness and adherence to agreed-upon objectives.
- Involving First Nations stakeholders and representatives, in decision-making processes and policy development. Fostering a sense of ownership and accountability across the First Nations community and breadth of First Nations organisations

3. Effectiveness of Policy Partnerships and Alternative Mechanisms

- Policy partnerships are a valuable mechanism for addressing change across the five sectors defined in the National Agreement on Closing the Gap. Their effectiveness could be enhanced by fostering deeper collaboration, broader representation and voice of local people (not political representatives), incorporating regular evaluations, and ensuring meaningful First Nations participation at all stages.
- While policy partnerships are effective for government to engage and receive information, integrating localised community engagement, community-led initiatives, and increased involvement of First Nations organisations will complement their efforts.
- Evaluating the effectiveness of policy partnerships should extend beyond short-term outcomes. Consideration should be given to the partnerships' contribution to ending generational trauma and reducing economic disadvantage within First Nations communities. This involves measuring the improvement in key socioeconomic indicators such as employment rates, income levels, housing conditions, and access to First Nations lead healthcare and education over multiple generations.

- There is currently a small group of people determining representation of our people in policy partnerships. A more inclusive and representative process of our diverse Nations would improve contribution, strategy, solutions and effectiveness.
- Effective policy partnerships should prioritize the active involvement of First Nations communities in the decision-making processes related to policies affecting them. Assessing partnerships for their success in empowering Indigenous communities to have a say in policies that impact their lives can lead to more culturally sensitive and community-driven solutions. Direction from elders and alignment with cultural protocols is essential. Note involvement of elders and necessary requirements such as language access and protocols

Information Request 2: Shifting service delivery to Aboriginal community controlled organisations (ACCOs)

- *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.*

Children's Ground position on ACCO's

Clause 44 of the [National Agreement on Closing the Gap](#) sets the definition of an ACCO. Clause 44 states that:

- Aboriginal and Torres Strait Islander community control is an act of self-determination. Under this Agreement, an Aboriginal and/or Torres Strait Islander Community-Controlled Organisation delivers services, including land and resource management that builds the strength and empowerment of Aboriginal and Torres Strait Islander communities and people and is:
 - a. incorporated under relevant legislation and not-for-profit.
 - b. controlled and operated by Aboriginal and/or Torres Strait Islander people.
 - c. connected to the community, or communities, in which they deliver the services.
 - d. governed by a majority Aboriginal and/or Torres Strait Islander governing body.
- Children's Ground is an ACCO and satisfies the criteria as detailed by the National Agreement on Closing the Gap. Children's Ground First Nations controlled national Board of Directors and our community level Cultural Governance have determined that CG be incorporated under the Corporations Act 2001 (Cth) rather than the CATSI Act due to concerns about the CATSI Act and to exercise our rights to governance structures that do not force a definition of legitimacy as Aboriginal people that we have been subject to throughout our lives.
- This decision was supported by the previous and current Ministers for Indigenous Australians. However, we have experienced unfair treatment in the bureaucracy due to this.

- In March 2022, Children’s Ground was advised by executive bureaucrats in the Department of Health that we were not a priority funding recipient by the Department because we are not registered under the CATSI Act. We were also told that we were not deemed to be an Aboriginal Community Controlled Organisation. We are extremely concerned by these comments and that our registration under the Corporations Act is having a detrimental impact on our capacity to receive funding, subsequently impacting our capacity to work with and improve outcomes with First Nations children, young people, families and whole communities.
- Children’s Ground is an Aboriginal Controlled Organisation, and we are extremely concerned by the assertions by Government that we aren’t. This assertion is firstly wrong and secondly discriminatory given the funding implications as detailed by departmental staff. We are also extremely concerned by the continued government funding focus on the ACCO’s and Coalition of the Peaks, which is further reinforced in the Productivity Commissions draft Review of the National Agreement on Closing the Gap.
- Children’s Ground is incorporated under the Corporations Act and we are very proud to be an Aboriginal organisation incorporated under an Act for all companies in Australia. Children’s Ground meets the requirements of the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (CATSI Act) and we satisfy the standards set by Government as an Aboriginal organisation. It is our First Nations board members who have been resolute about being incorporated under the Corporations Act rather than CATSI Act. Children’s Ground Board of Directors have voiced resistance to unnecessary and costly administrative changes to the company to prove its status as a First Nations organisation. However, neither of these acts satisfy the Governance standards set by our First Nations communities as these Acts are legal conscript defined through a Western law. At Children’s Ground we uphold our customary governance structures as critical to our identity and cultural authority.
- Aboriginal law does not sit within the Corporations Act, the CATSI Act or any other Western act. It sits with First Nations people and their culture; this is what guides the decision making and governance of Children’s Ground. We have First Nations governance in each community that is founded and grounded in First Nations governance laws and protocols. Our board, established under the Corporations Act, works in partnership with and takes guidance through customary law from our Elders and community leaders who lead our cultural governance in each location.
- Children’s Ground has a powerful governance system that equally recognises both First Nations and Western structures of leadership, which bring important and critical accountability. We are very proud of what we have achieved and our standards of accountability, strategy and compliance. We know that the only way to achieve progress is to have the voice of Aboriginal people at the core of all decision making.
- The purpose of the CATSI Act, as the successor to the Aboriginal Councils and Associations Act 1976 (Cth), is to provide a simple and flexible means for incorporating associations of First Nations people and to promote good governance and management of First Nations corporations through special forms of regulatory assistance. It was created as a special measure for the advancement and protection of Aboriginal peoples and Torres Strait Islanders in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination and the Racial Discrimination Act 1975 (Cth).
- It is evident that the purpose of the legislation is to encourage and promote First Nations groups seeking to incorporate, and not to increase the administrative burden of First Nations

-led companies. In line with this purpose, registration under the CATSI Act should not be a requirement to be considered as an Aboriginal Community Controlled Organisation.

- We recommend a clear policy that upholds our constitutional and human rights to incorporate our organisations with freedom, and that this be clearly articulated to relevant government bodies. Conditions set out in the National Agreement outlined above provide this freedom.

Information Request 4. Indigenous data sovereignty

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?

1. Substantive Differences between Priority Reform 4 and Indigenous Data Sovereignty as an Objective

- Priority Reform 4 (Shared Access to Data and Information at a Regional Level) in the National Agreement on Closing the Gap focuses on improving data collection, disaggregation, and reporting related to First Nations peoples. It aims to ensure accurate and comprehensive data to inform policy and programs addressing disparities in key outcomes such as health, education, economic participation, and community safety. Whereas, First Nations data sovereignty ensures the rights of Indigenous communities to govern, manage, and utilise their own data and any data collected about them according to their cultural, social, and political needs. These are very different concepts.
- First Nations data sovereignty respects self-determination, empowers First Nations people and supports the control and ownership of Indigenous data by First Nations people and communities.
- Explicitly incorporating Indigenous data sovereignty as the objective of Priority Reform 4 would signify a fundamental shift in approach. Children's Ground believes that sovereignty should go beyond data and be extended to First Nations sovereignty over any research and evaluation being undertaken about their children, young people, families, communities and populations.

2. Implications of Explicitly Including Indigenous Data Sovereignty in Priority Reform 4

- Empowerment, agency and self-determination needs to be central to any Indigenous data sovereignty processes, systems and resources.
- Governments would need to prioritise empowering First Nations communities in managing and governing their own data. This would involve engaging communities in determining data collection methodologies, defining relevant indicators, analysing data from a First Nations perspective and deciding how data is used, shared and of benefit.
- Adequate funding should be allocated to support First Nations data, research and evaluation sovereignty initiatives, ensuring sustainability and longevity. This funding should include time and resources to build on local capacity to ensure genuine knowledge and skill building

in western systems of data, research and evaluation, it should also prioritise understanding data from a First Nations perspective from First Nations people from communities. Resources should also be allocated to relevant infrastructure, technology, and ongoing community engagement efforts.

- To achieve this, governments should actively partner with First Nations organisations and communities to define Indigenous sovereignty in the context of ownership, use and sharing of data systems. This entails establishing genuine partnerships, fostering mutual trust, and co-creating data governance mechanisms that can be controlled and governed by First Nations communities.

It needs to be acknowledged that much of the data collected and collated for Closing the Gap is in the national and jurisdictional interest – not in the interest of First Nations people. This is evidenced by the lack of data indicators and collection that focuses on First Nations language and culture which is a strength and protective factor for First Nations people.

Cultural wellbeing is arguably the more important determinant to achieving health, social, educational and economic equity and equality for First Nations people – and this needs to include cultural safety, knowledge systems and approaches embedded within the monitoring of Closing the Gap. First Nations people need ownership, control and leadership in defining outcomes, performance indicators, datasets and reporting. These will better reflect the people, the users, consumers, children, families, adults and Elders.

Only effective processes and systems that enable First Nations data, research and evaluation sovereignty can begin to embed culturally-based data and indicators that are relevant for different Nations. Data and indicators that are designed by and relevant to First Nations people can only be achieved by full data ownership and control by First Nations people in communities across Australia.

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?

1. Legislative and Policy Barriers

- Complex bureaucratic processes and excessive red tape within government agencies can impede efficient data sharing. Cumbersome administrative procedures and approval mechanisms can discourage timely and meaningful sharing of data.
- A lack of understanding about the daily reality of many First Nations people is a significant barrier. The inability of governments to genuinely engage with First Nations people sees a continued lack of understanding about the solutions and policies required to effectively share data with First Nations people. Relationships with First Nations people on the ground are critical and central to data sharing, but more importantly data sovereignty.
- Historic and current government data sharing practices have been and remain a top down approach that makes engagement with people in communities meaningless to them. Even if

legislation and policies are developed they have very little impact on the ground with communities.

2. Changes Needed to Overcome Barriers

- Data sharing is the end point of the data sovereignty process and system. When First Nations people are involved in defining data needed, collection methods, analysis and reporting then data sharing can be effective. The alternative and current model is expecting First Nations people to engage id data collected about them, but without them – they feel no ownership or control over the data and over how it is used to make decisions and design policies and programs ‘for them’, rather than with them.
- Developing specific legislation that outlines the rights and responsibilities of First Nations people concerning their data. This legislation could promote their control over data governance, including consent mechanisms and the ability to determine data usage.
- Conducting a comprehensive review of privacy regulations to tailor them for culturally sensitive and consent-driven data sharing with First Nations communities. This could include creating exemptions or modifying consent frameworks to allow for appropriate data sharing.
- Language friendly regulations and policies can also provide trust in partnerships and promote data sharing.
- In Canada the OCAP data sovereignty principles stand for ‘Ownership, Control, Access, and Possession’¹. If the government is genuine about seeking to achieve First Nations data sovereignty through the Closing the Gap initiative and systems, it need to have guiding principles that are applied to all data collected and analysed about First Nations people. First Nations people from communities need to have a voice in all data collected, they need to have control over that data and be partners in the analysis of data.
- Children’s Ground has developed high-level research and evaluation principles that sit across the organisation and communities. These principles are the foundation of all our data collection, research and evaluation internally and with any external partners. They are grounded in ethical and evidence-based practice that ensure the rights and wellbeing of all First Nations peoples.
 - First Nations peoples right to control and own data, research and evaluation about them and on their country
 - Trust and respect
 - Community leadership and participation from end to end (design, practice, analysis and reporting)
 - Local context and knowledge must be privileged
 - Creating knowledge together through joint research that combines First Nations and Western evidence and research practice
 - Knowledge into action and impact ensuring what we learn is used to improve lives
 - Only undertake research and evaluation that is of benefit to the participants and their communities/groups
- Embedded within any systems and processes the government introduce to achieve First Nations data sovereignty needs to be the recognition of the benefits for First Nations people of learning in their first language and learning on country and make provisions for this, led by local First Nations people.

¹ <https://fnigc.ca/ocap-training>

- Collective outcomes and shared accountability for measures and reporting across government departments and services can compel siloes to work together in the interest of the people. The system needs to create the conditions to compel shared outcomes, progress measures, data collection and reporting in a way that places First Nations people at the centre of the system. This will enable evaluations of whole community and service efforts and progress as a collective contribution to improving outcomes for First Nations people. It will reduce the focus on individual organisations and compel a collective focus on people by governments and services. Population and community level change will not be achieved without collective investment and efforts.

3. Costs and Benefits of Changes:

Costs

- Reforming systems requires adequate resources at all levels in an integrated and sustained manner. Throughout the Closing the Gap initiative billions of dollars have been poured into siloed programs that are short-lived and rarely evaluated for impact and not evaluated with local First Nations people.
- Reforming this entrenched government system and bureaucracy should not take more money, but will require rethinking how current resources are invested – taking into consideration the length and impact of current funding. With minimal progress being made in Closing the Gap targets and priority reform areas, the Productivity Commission should also be reviewing the financial investment, accountability, transparency and impact of the Closing the Gap initiative.
- It will be important to understand a cost analysis to understand:
 - What percentage of the Closing the Gap investment goes to bureaucratic positions and what percentages funds First Nations led programs, services and solutions?
 - What percentage of funding is tied to evaluation, impact and accountability?
 - What percentage of funding is provided in a sustained way, i.e. over a period of at least five years to ensure time to engage, implement and evaluate impact?
 - What percentage of funding is provided with clear measures of success, impact, transparency and accountability attached?
- Investing in First Nations data sovereignty alone will not change outcomes. First Nations people need to have ownership, access and control over data and in the decision-making about service and programs designed to support them. Data should always be linked to service and systems design and planning, rather than a siloed focus area that the government invests in. First Nations people know their daily reality. They know the statistics. Therefore, data sharing and sovereignty needs to be an active process and linked to First Nations designed policies, programs and services locally.
- Designing data sharing and sovereignty systems and processes cannot be undertaken without considering systems reform and the impact that current services, initiatives and a lack of data sovereignty have had on First Nations Australians and the inability to close the gap and improve outcomes for First Nations peoples. We cannot continue to have Western systems, services, research and evaluation imposed on First Nations communities without their leadership in design, implementation, analysis and reporting.
- First Nations data sovereignty and cultural safety cannot be achieved by non-First Nations people, nor by First Nations people who do not live or understand the daily reality of the

people living in the communities that programs, policies and data collection and analysis are trying to change. This work needs to be undertaken with First Nations people from communities as the leaders and decision makers.

Benefits:

- First Nations people have been the subjects of data collection, research and evaluation about them in different forms since colonisation. In many cases, data is collected about people and from people through research and evaluation and is taken away to be analysed and used to make policy and program decisions about First Nations people – without them and with no direct benefit for the individuals or communities involved.
- When established the Closing the Gap reform areas had the potential to contribute to changing this – but they did not. The draft Productivity Commission report shows little progress and little effort to change the systems that provide the authorising and enabling environments for achieving First Nations empowerment and agency over their own lives.
- The benefits of governments and all service sectors seeking to establish First Nations data, research and evaluation sovereignty is significant. It is an opportunity for governments, services, researchers and evaluators to move beyond the rhetoric and establish processes and systems that empower First Nations people in the data collected about them, and into a space where First Nations people have a genuine voice and empowerment in all data collected about them. It is also an opportunity to genuinely understand data that First Nations people want collected and how it can be collected in a culturally safe way and be meaningfully analysed and used.
- Benefits of empowering First Nations people gives people greater control over how their data is governed, leading to improved engagement and outcomes.
- Enhanced trust and collaboration between government agencies and Indigenous communities will be a benefit if empowerment an agency are central to the process.
- More accurate and relevant data, policies and programs will result from First Nations data, research and evaluation sovereignty.

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 a data development body is established this needs to be done with caution. We do not need to invest in another body that will see the status quo and government's business as usual continue – we have the evidence that these have not been effective and have continued to perpetuate damage caused to First Nations people across the country in many different ways.

This Productivity Commission and a data development body have the opportunity to set the standard for how First Nations data, research and evaluation sovereignty can and should be achieved in a way that genuinely engages First Nations people in data, research and evaluation undertaken and used about them.

A data development body need to be established and funded in a way that can achieve the following:

- First Nations design and governance, and bringing in western-trained experts as needed.
- A body needs to be independent from government who have demonstrated minimal progress in Closing the Gap and priority systems reform for more than a decade.
- It needs to empower First Nations communities to own and control their data by implementing mechanisms that allow communities to dictate how their data is collected, managed, and shared, respecting their data sovereignty and cultural rights.
- Resources need to be adequate to build place-based community level engagement and data sovereignty processes and systems. This will take time and significant investment – but will not be effective without these grounded engagement and leadership processes.
- First Nations organisations cannot be a surrogate for community voice. However, First Nations community controlled organisations can be a conduit to communities. They need to be funded adequately to do this work. Community engagement cannot be effectively and genuinely achieved without trusted relationships with First Nations people.
- Have clear decision-making processes that consider input from all stakeholders, but that are led by First Nations people and community representatives.
- It is not enough to have First Nations academics, researchers and data specialists represented on this group. People living in communities across Australia need to be represented. This will require changes to how and where meetings are held and language used, i.e. academic and data jargon needs to be presented in plain English, or at a minimum each concept articulated in language that people understand.
- The representation of First Nations people from communities cannot be tokenistic – people need to genuinely understand the concepts, discussions, data, etc.
- It is critical that a wide range of diverse national and local First Nations voices are heard, embedded and empowered in data development - so policies, services and programs designed to support First Nations people are delivered and evaluated in ways that recognise, reflect and strengthen cultural identity, law, land, kinship and approaches, as well as the western data collections and indicators.
- It should include legislated data sovereignty policies that apply to all research, evaluation and data collection that work alongside existing data institutions, Human Research Ethics Committees, etc.
- All representatives should have a deep understanding of the cultural, social, and historical context of First Nations peoples and the negative impact of disempowerment in data, research and evaluation and the harm this has contributed since colonisation.

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 current performance reporting and data sharing tools focus on the national and jurisdictional level. These do not provide community level data that is adequate, meaningful or beneficial for local communities.

- The Dashboard Annual Data Compilation Report (ADCR) are important to continue to ensure data access for First Nations and other organisations, policymakers, government agencies, community groups, researchers, and the broader public interested in tracking progress on Closing the Gap targets.
- However, to make it locally relevant for communities so they can use data to inform their planning more work needs to be done to provide the local data story for communities.
- If communities are an intended audience of Closing the Gap performance reporting (as they should be) then investment needs to be made in working with First Nations people to design performance reporting that is accessible to communities who may not have experience in understanding, working with and using western data systems.
- We recognise that community level data may be challenging to present publicly due to small geographic areas, however in these cases it needs to be identified that data is either not collected extensively enough by community areas and/or there are data gaps that we need to seek to fill to ensure communities can have access to local level data that is relevant for their communities.
- Performance reporting needs to go beyond traditionally used reports and consider different mediums for communication of and engagement in data, i.e. in-person sessions, videos, etc. These should be designed by First Nations people from communities to ensure communication mechanisms and mediums are relevant to the local community audiences.
- When communities have a say in what and how data is collected and reported it allows for the inclusion of culturally-based metrics and indicators, such as language preservation and other cultural strengths.
- Recognise that First Nations communities hold unique expertise and knowledge about their own well-being and aspirations. Asking them to lead reporting tools acknowledges and values this expertise, leading to more informed decision-making and program development.
- Community leadership in data development and performance reporting can enhance data transparency and accountability. When communities understand how data is collected, analysed, and reported, it builds trust and ensures that data practices are culturally sensitive and respectful.

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?

Within the agreement, the criteria on how implementation plans and annual reports should be prepared and what they should include presents a missed opportunity with the focus clearly being on governments, services and organisations, rather than the people the plans and reports are intended to support. While the criteria that are included in the agreement are fine for the high level audiences they seek to inform – there is little evidence that they have been implemented, received and acted upon as intended. Real change needs to come from the ground – from First Nations people living in communities. The current quality of reporting and implementation plans are not fit-for-purpose for this audience.

Overall, a shift in power is needed to achieve First Nations ownership and leadership of the Closing the Gap initiative - shifting power from governments and services to people – reversing the current top down processes to enable bottom up community leadership in all levels of Closing the Gap – data, reporting, planning and action. This can shift disempowerment of First Nations people from a position of exclusion to one of inclusion in decision-making, service delivery and self-advocacy.

Many First Nations people have experienced significant disempowerment and social, economic and political exclusion for generations. Currently, governments and services hold the power, rather than the people who are affected by the decisions and determinations made about them rather than with

them. A shift in power and systems reform is required at all levels including: policy development; systems planning and design; data development; and program/service delivery and evaluation.

Developing implementation plans in partnership with First Nations communities is critical. Meaningful engagement and local design by First Nations people will inform and shape policies and initiatives that are culturally appropriate, locally relevant, effective, and reflective of community needs and aspirations.

Implementation plans must clearly outline how existing policies and programs will be aligned with the objectives and targets set out in the Closing the Gap Agreement. Demonstrating this alignment ensures that efforts are directed towards achieving the Agreement's intended outcomes.

Implementation plans should provide a detailed roadmap of actions that will be undertaken to achieve the Priority Reforms, socio-economic outcomes, and targets defined in the Agreement. Clear, actionable steps with specified responsibilities and timelines are crucial for effective execution.

Transparency regarding funding allocation and timeframes for actions is essential. Integrated mechanisms to hold governments and services accountable to the communities they work in and serve. This could include regular progress reviews, performance assessments, and reporting on achieved milestones by First Nations organisations and people.

Implement a robust local community led system for ongoing monitoring and evaluation of implementation plans and annual reports to ensure adherence to the criteria and effectiveness in achieving intended outcomes.

Ensure that annual reports are transparent and comprehensive, providing a clear account of the progress made, challenges faced, and areas requiring improvement.

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?

Children's Ground recognises the cultural authority of First Nations people across many Nations that have lived and governed in the lands for over 65,000 years. The importance a First Nations voice and the power of this voice is something we have always understood.

If governments are genuinely seeking accountability they will support an independent mechanism that will drive accountability by supporting, monitoring and reporting on governments' transformations. However, it needs to be recognised that changes in government transformations alone cannot improve outcomes of First Nations people. Systems reform and transformation needs to be embedded within government and all funded services and programs working with First Nations people and communities.

An independent mechanism should operate autonomously, free from undue influence, ensuring impartiality and credibility in its assessments and reporting. It should also respect the diversity of First Nations governance, for example, one nation cannot speak for another nation.

Accountability to and transparency in funding and service delivery needs to be widespread and accountability to communities is critical.

The historical experiences and intergenerational impacts of colonisation for First Nations people are not considered in the design, implementation or evaluation of policies and programs. Services and systems are rarely designed with the consideration of first culture, language and society. Remote First Nations communities are subject to programs and people which are often foreign in design, language and culture, and where non-indigenous staff are changeable. These factors mean that access to basic foundational services that are commonplace in mainstream Australia are often lacking for many First Nations people and communities. Subsequently, if services and programs are not accessible nor effective, this will impact and reduce the likelihood of any national targets being achieved. This is an important form of accountability to communities and needs to be considered in the establishment of an independent body.

The service system, measurement and accountability needs to be placed where people live. It needs to be accessible, responsive and engaged with the people it serves. We need to stop thinking about the national and jurisdictional picture only and start thinking, acting and being accountable locally. Strong community governance and ownership is central to all approaches – with governments and services reporting to communities as local governing bodies. Rather than being seen as recipients of services, people should be considered as designers, delivers and evaluators of services. This changes the relationship people have with services. It moves people from being passive recipients to active leaders in services and solutions.

In establishing an independent body to compel transparency and accountability of governments and services, we also need to consider that empowerment and agency for First Nations people as individuals and/or communities collectively are not the same as funding Aboriginal organisations. There is a danger that funding Aboriginal organisations is seen as representing the voice of people in communities. We cannot confuse the voice and leadership of First Nations people in communities, with those funded to deliver and evaluate services – whether they are Aboriginal services or not. As

services we are ultimately there to work with First Nations people to enable better life outcomes for people. It is the users voice that is critical. It is the users voice that should also be leading design, monitoring and evaluation of services and policies.

To begin making progress towards treating our First Nations peoples in line with the basic human rights outlined by the United Nations, our service systems and strategies for monitoring and evaluating policies and programs need to establish empowerment of First Nations people in monitoring and evaluation, service delivery and in local, jurisdictional and national systems and policy development and decision-making. These should be informed and led by First Nations voices from all corners of Australia – from those who live in cities and large towns through to those who live in remote communities who have a different lived experience in relation to social, economic, education, health and wellbeing service access and outcomes. This needs to be a significant consideration in the establishment of any independent body tasked with monitoring and evaluation transparency and accountability.

The 2017 Human Services Productivity Commission identified that the current service systems are broken². Over decades human services have become increasingly fragmented, resulting in a piecemeal approach of fractured service and program delivery. In some areas the impact of this has been catastrophic for children, families and communities. It has resulted in increasing complexity of the issues people are experiencing, and a service system that cannot keep pace with changes in families, communities, society and government. Governments and services need to be held accountable to the communities they work within and are seeking to serve.

Many government and non-government services have wonderful visions that start with a focus on people and outcomes. However, realising this vision is compromised by the way the funding and service systems functions. Funding is influenced by political cycles, constant changes in senior government ministers and staff and policy platforms. Coupled with competitive and short-term funding allocations, services are forced to focus on survival - being reduced to competing for funding for siloed programs that allow them to deliver only specific and discrete outputs, rather than a focus on prevention, long or even short-term outcomes.

Too often this environment means that organisations are adjusting to fit into Government priorities for financial survival rather than community priorities. This is an entrenched pattern across all levels of government and filtering through service systems across all sectors – this needs to change in order to change the relationship between First Nations people, providers, governments and businesses. It also needs to change in order to establish transparency and accountability to compel an integrated and collective approach that centres First Nations people in service design, delivery and evaluation.

There is minimal evidence in literature, policy implementation and practice to suggest that we are on-track or putting the right policies, systems, programs and evaluations in place nor that we have genuinely started working towards achieving this. The Productivity Commission has an opportunity to make recommendations that can change the status quo and improve transparency and accountability within government and more broadly across service sectors.

Information request 10: Senior leader or leadership group to drive change in the public sector.

² Australian Government Productivity Commission. 2017. Introducing Competition and Informed User Choice into Human Services: Reforms to Human Services.

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?*

A senior leader or leadership group to drive change in the public sector is important, but should not in any way replace the many ways First Nations people choose to exercise their voice.

The Productivity Commission has an opportunity to look beyond one or a small number of leaders driving change in the public sector. This is an opportunity to recommend that all public servants and staff in government funded organisations and programs have KPIs within their remit in order to improve cultural capability and relationships with First Nations people and to eliminate institutional racism throughout the public sector. KPIs should also include individuals considering and working towards how they can contribute to cultural safety, understanding the history and truth of Australia's First Nations people and how they can positively impact, progress and support First Nations people and communities in their work.

The willingness of the current Federal Government demonstrates a desire for change in ways we have not seen from previous governments. The Productivity Commission has the opportunity to build on this with recommendations that can encourage the government to make a change.

To change the status quo, we need to be looking beyond a few senior leaders to drive change and seek to embed change across all levels of government and funded services. The result of the referendum demonstrated that we have a long journey ahead of us to make significant changes for First Nations people in this country.

It will take a whole-of-system approach to eliminate institutional racism and this can only be achieved by people who have an in-depth understanding of the history, intergenerational trauma and stressors and context that many First Nations people live with daily. Key tasks of reviewing systems, policies, programs, etc can be asked of people, but institutional racism will continue until people understand and truth telling is prominent and prevalent within governments, services, organisations and across the Australian population.

Summary

For generations First Nations people who have been deprived of voice, choice, agency, social, economic and political power. It is time for First Nations culture and people to be privileged and included, rather than excluded, consulted only or under-represented. First Nations peoples have

clear aspirations and strategies for achieving change within their communities. It is critical that systems of services, policies and politics needs to completely reform the way it engages and works with First Nations Communities.

This submission has outlined the importance of First Nations people being at the centre of all levels of data design, development, collection, analysis, storage, sharing and use. We advocate for going beyond data sovereignty and into full First Nations sovereignty in data research and evaluation – all of which are used to make decisions, policies and programs about First Nations people without their leadership. The lack of sovereignty in this space has contributed to and perpetuated the poor outcomes many First Nations people live with today.

The key message throughout this submission can be summarised with the following quote from William Tilmouth, Chair of the Children’s Ground Board:

“Nothing about us without us”

Ensuring First Nations people are at the centre of service and system design, delivery and evaluation and in progress reporting is possible, and is the only way to generate culturally appropriate and meaningful outcomes and measures for their children, families and community. When people are involved in and have ownership over services, programs and measurement they understand what data is being collected about them and engage in collecting and using the data to inform and drive locally relevant solutions.

Australia cannot continue to have such a disconnect between national outcomes sought and what is being achieved (actually not being achieved) on the ground in communities. The reason the Closing the Gap targets are not being met is not because First Nations people don’t want positive outcomes for themselves and their communities - it is because services and systems are not working alongside First Nations people to address their priorities in a culturally responsive framework. It is also because a lack of transparency and ‘fear of failure’ environments are masking adequate accountability to communities and public funds.

One of Children’s Ground’s founding Elders who has recently passed said:

“We’ve been following government nearly all our lives – this is a new beginning. We are following a new path, our own path as First Nations people for the future of our children. At Children’s Ground, the community are taking the lead. We are very proud of that. We are the government of ourselves.”

M.K. Turner (dec), OAM, Arrernte Professor, Elder and Law Woman
Ampe-kenhe Ahelhe Director Children’s Ground