



Review of the National Agreement on Closing the Gap

Priority Reform 4: Shared access to data and information at a regional level

Information paper 5

Draft report



The Productivity Commission acknowledges that Aboriginal and Torres Strait Islander people are the first storytellers of this land and Traditional Owners of Country on which we now live and work. We recognise their continuing connection to lands, waters, communities and cultures. We pay our respects to Aboriginal and Torres Strait Islander cultures, and to Elders past and present.

Aboriginal and Torres Strait Islander people should be aware that this report may contain the names of people who have since passed away.

The Productivity Commission

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

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Publication enquiries:
Phone 03 9653 2244 | Email publications@pc.gov.au


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Key points

-  **Priority Reform 4 is about changing the way governments work with data and with Aboriginal and Torres Strait Islander people in relation to data. The Agreement does not explicitly state that Indigenous data sovereignty is the objective of Priority Reform 4, although the commitments that have been made are not at odds with it. The Commission is seeking further information for the final report about whether the Agreement needs to change to explicitly name Indigenous data sovereignty as the objective of Priority Reform 4, and, if so, whether additional commitments are needed to support the achievement of this goal.**

-  **There has been no large-scale change relating to Priority Reform 4. Most of governments' actions have been about increasing the sharing of existing government-held data. Very few have been about valuing Aboriginal and Torres Strait Islander people's ways of knowing, and grappling with the changes required to governments' data systems and practices to enable data to be used to meet Aboriginal and Torres Strait Islander people's priorities and needs.**
 - Governments have also insufficiently supported Aboriginal and Torres Strait Islander organisations and communities to build and strengthen data capability. Without sufficient data capability, Aboriginal and Torres Strait Islander communities and organisations cannot effectively undertake data activities to support positive outcomes for Aboriginal and Torres Strait Islander people, nor engage with governments about how data systems and practices need to change.

-  **The community data projects have been delayed for a variety of reasons, and are unlikely to be established by the end of 2023, as required by the Agreement. The locations for all projects have been determined, but the specific purposes and topics of most projects are still undecided. Governments are looking to Aboriginal and Torres Strait Islander partners and communities to provide leadership on what the community data projects should aim to achieve.**

-  **Much work remains to be done in implementing Priority Reform 4. Governments need to:**
 - change officials' attitudes towards sharing data with Aboriginal and Torres Strait Islander people
 - value Aboriginal and Torres Strait Islander people's ways of governing data, and change governments' data systems and practices in response
 - increase support provided to Aboriginal and Torres Strait Islander organisations to develop data capability.

1 What is Priority Reform 4 about?

Priority Reform 4 is titled ‘shared access to data and information at a regional level’. Through the National Agreement on Closing the Gap (the Agreement), governments have agreed to:

- share available, disaggregated regional data and information with Aboriginal and Torres Strait Islander organisations and communities on Closing the Gap, subject to meeting privacy requirements.
- establish partnerships between Aboriginal and Torres Strait Islander people and government agencies to improve the collection, access, management and use of data, including by identifying improvements to existing data collection and management.
- be more transparent with Aboriginal and Torres Strait Islander people about what data they have and how it can be accessed.
- build the capacity of Aboriginal and Torres Strait Islander organisations and communities to collect and use data (clause 72).

These commitments are the ‘jurisdictional actions’ under Priority Reform 4. The Agreement also sets out ‘data and information sharing elements’ that governments and the Coalition of Peaks have agreed should characterise data and information sharing practices between government and Aboriginal and Torres Strait Islander people (box 1). These largely repeat the jurisdictional actions.



Box 1 – The data and information sharing elements

- There are partnerships in place between Aboriginal and Torres Strait Islander representatives and government organisations to guide the improved collection, access, management and use of data to inform shared decision-making for the benefit of Aboriginal and Torres Strait Islander people.
- Governments agree to provide Aboriginal and Torres Strait Islander communities and organisations access to the same data and information on which any decisions are made, subject to meeting privacy requirements, and ensuring data security and integrity.
- Governments collect, handle and report data at sufficient levels of disaggregation, and in an accessible and timely way, to empower local Aboriginal and Torres Strait Islander communities to access, use and interpret data for local decision-making.
- Aboriginal and Torres Strait Islander communities and organisations are supported by governments to build capability and expertise in collecting, using and interpreting data in a meaningful way.

Source: clause 71.

Governments and the Coalition of Peaks have also agreed to one partnership action – the establishment of up to six community data projects across Australia. The progress of community data projects is discussed in section 5.

Priority Reform 4 is not just about governments sharing data

As noted above, several parts of the Agreement frame Priority Reform 4 in terms of data sharing. However, when taken as a whole, the text of the Agreement relating to Priority Reform 4 suggests that its scope is much broader than data sharing alone.

The data and information sharing elements and jurisdictional actions refer to ‘partnerships ... to guide the improved collection, access, management and use of data’ (clause 71a), ‘including [to identify] improvements to

existing data collection and management' (clause 72b). Another data and information sharing element is that governments 'collect, handle and report data at sufficient levels of disaggregation, and in an accessible and timely way'. These are not simply about governments sharing the data they already have, but about changing the way that governments undertake data-related activities. In the case of partnerships, it is also about changing the balance of power between governments and Aboriginal and Torres Strait Islander people when determining what, how and why data-related activities are undertaken to inform policy, to give more voice to Aboriginal and Torres Strait Islander people on how to undertake these activities.

Many parts of the Agreement also speak of Aboriginal and Torres Strait Islander people using, or being able to use, data for their own purposes. For example, both the data and information sharing elements and jurisdictional actions refer to building the capability, expertise or capacity of Aboriginal and Torres Strait Islander communities and organisations to collect, use and interpret data (clauses 71(d) and 72(d)). The community data projects also aim to 'enable Aboriginal and Torres Strait Islander communities and organisations to access and use location-specific data ...' (clause 74). And the outcome for Priority Reform 4 is that 'Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities, and drive their own development'.

Being able to use data to achieve their priorities requires not only that Aboriginal and Torres Strait Islander people are able to access data held by governments, but that they are able to collect, use, obtain and hold *any* data that they need. As such, the scope of Priority Reform 4 is not limited to governments sharing data on topics that are of interest to them (government) – it also includes governments understanding what data Aboriginal and Torres Strait Islander people need, and working with them to gather data. The idea of governments working with Aboriginal and Torres Strait Islander people to provide data that is meaningful to them is consistent with one of the principles of Indigenous data sovereignty in Australia (boxes 2 and 3).



Box 2 – What is Indigenous data sovereignty?

Indigenous data sovereignty 'derives from the inherent right of indigenous peoples to govern [their] peoples, countries (including lands, waters and sky) and resources, as set out in the United Nations Declaration on the Rights of Indigenous Peoples' (Te Mana Raraunga, USIDSN, and Maiam nayri Wingara 2019, p. 1). Historically, indigenous peoples have been excluded from the processes that determine what data governments collect about them, and why and how (Maiam nayri Wingara 2022, p. 3). The Indigenous data sovereignty movement is a global movement borne out of the desire to protect against the misuse of data about indigenous peoples, and to ensure that indigenous peoples are the primary beneficiaries of their data (Walter and Carroll 2020, p. 11).

In Australia, Indigenous data sovereignty has been defined as the right of Indigenous people to exercise ownership over Indigenous data. Ownership can be expressed through creation, collection, access, analysis, interpretation, management, dissemination and reuse. Indigenous data refers to information or knowledge about or affecting Indigenous peoples, either collectively or individually (Maiam nayri Wingara 2023a).

At an Indigenous data sovereignty summit in 2018, delegates asserted that the principles of Indigenous data sovereignty in Australia were that Indigenous peoples have the right to:

- exercise control of the data ecosystem, including creation, development, stewardship, analysis, dissemination and infrastructure



Box 2 – What is Indigenous data sovereignty?

- data that are contextual and disaggregated (available and accessible at individual, community and First Nations levels)
- data that are relevant and empowers sustainable self-determination and effective self-governance
- data structures that are accountable to Indigenous peoples and First Nations
- data that are protective and respects individual and collective interests (Maiam nayri Wingara 2023b).

In essence, Indigenous data sovereignty is about the ability of Indigenous people to exercise agency over data as a tool to achieve their social, economic, political and cultural aims. Indigenous data sovereignty is expressed through Indigenous data governance, defined as Indigenous people ‘autonomously [deciding] what, how and why Indigenous data are collected, accessed and used’ (Maiam nayri Wingara 2023a).

Indigenous data governance can take many different forms. For example, it can take the form of Aboriginal and Torres Strait Islander people determining what indicators best represent their wellbeing, what data is most relevant in informing the design of policies and programs, and how data is best interpreted to reflect the reality of Aboriginal and Torres Strait Islander people’s lives. These processes are driven by Aboriginal and Torres Strait Islander peoples’ ways of knowing and being, which may differ to those of non-Indigenous people, and are more appropriate to informing policies and programs affecting Aboriginal and Torres Strait Islander people. Examples of Indigenous data governance in Australia include the data governance arrangements as part of the Maranguka Justice Reinvestment Project and the Mayi Kuwayu study (box 3).

The importance of Aboriginal and Torres Strait Islander people exercising agency over data in ways that accord with their world views was explained by AbSec in its submission to the Productivity Commission’s Indigenous Evaluation Strategy study.

By empowering Aboriginal communities with relevant data, and the opportunity to define, collect and analyse such data in accordance with our own perspective, priorities and aspirations, Aboriginal communities will be better placed to make informed decisions about policies and programs, and to determine and administer systems for our social, cultural and economic development. (2019, p. 7)



Box 3 – Examples of Indigenous data governance in Australia

Data governance under the Maranguka Justice Reinvestment project

Maranguka means ‘caring for others’ in Ngemba language (Just Reinvest NSW 2023). The Maranguka Justice Reinvestment project is an Aboriginal-led justice reinvestment project in Bourke, New South Wales, aimed at addressing persistent high crime and incarceration rates. It takes a collective impact approach, which recognises that a single service is ineffective at addressing complex social issues, and that service providers across different sectors must work collaboratively (PC 2020, p. 201). A local governance group, the Bourke Tribal Council, works with government and enables local decision making about the coordination and delivery of services (KPMG 2016).

The collection and use of detailed local data underpins decision-making within the project. The project has established an Indigenous data governance structure, which aims to ensure Indigenous data sovereignty and leadership engagement. It centralises data requests and collection to ensure accountability can be upheld. The structure includes the Palimaa Data Platform, which automates data access and sharing from 15 contributors, including NSW Government departments and services operating in Bourke (Maranguka Community Hub, Kowa, and Seer Data & Analytics nd).

Mayi Kuwayu, the National Study of Aboriginal and Torres Strait Islander Wellbeing

Mayi Kuwayu, the National Study of Aboriginal and Torres Strait Islander Wellbeing is a survey tool and data resource on health and wellbeing as perceived by Aboriginal and Torres Strait Islander people. The tool was developed to ensure that measures to assess social determinants of health are not solely based on European academic opinion, but capture the breadth of shared cultural attributes that are important to understanding Aboriginal and Torres Strait Islander people’s health and wellbeing.

The study is led, developed, conducted, and governed by Aboriginal and Torres Strait Islander people. Mayi Kuwayu’s governance group includes peak Aboriginal and Torres Strait Islander health and research groups. Its data governance processes are overseen by an all-Indigenous data governance committee, which applies Maiam nayri Wingara Indigenous data sovereignty principles to assess data use requests, along with continued engagement with communities in the implementation of the questionnaire, and the analysis, interpretation, and dissemination of data collected (Bourke et al. 2022).

This paper first discusses the sharing of government-held data, as the most obvious activity required under Priority Reform 4 (section 2). Sections 3 and 4 then discuss how governments are changing their data systems and practices and how they are supporting Aboriginal and Torres Strait Islander people and organisations to undertake their own data activities.

Aboriginal and Torres Strait Islander people considered Priority Reform 4 to be about Indigenous data sovereignty

In the Productivity Commission’s engagements, Aboriginal and Torres Strait Islander people overwhelmingly considered that the overarching objective of Priority Reform 4 was the realisation of Indigenous data sovereignty. For example, when asked about progress on Priority Reform 4, many Aboriginal and Torres Strait Islander organisations spoke of wanting to ‘own’ their data.

Sharif Deen, Head of the NSW Coalition of Aboriginal Peak Organisations' Secretariat, also made it clear at the 2023 First Nations Public Administration Conference that Aboriginal and Torres Strait Islander people saw Indigenous data sovereignty as a key part of Priority Reform 4.

We were very clear from the start that Indigenous data sovereignty and Indigenous data governance is a key part of Priority Reform 4, so ... the fact that [the Agreement] doesn't say ... Indigenous data governance and Indigenous data governance explicitly ... [public servants have] just got to get over that, and accept that that's where it came from, from community. (Mikaere et al. 2023)

Submissions to the review also reflected the importance of Indigenous data sovereignty to Aboriginal and Torres Strait Islander people. For example, the Lowitja Institute (sub. 15, p. 8) called for Indigenous data sovereignty to be explicitly included in the Agreement. The Federation of Victorian Traditional Owner Corporations (sub. 24, p. 4) also said that, in order to support proper and meaningful implementation of Priority Reform 4, governments needed to uphold the principles of Indigenous data sovereignty.

Should Priority Reform 4 explicitly commit parties to Indigenous data sovereignty?

Although Aboriginal and Torres Strait Islander people considered Priority Reform 4 to be about Indigenous data sovereignty, the Agreement itself does not frame Priority Reform 4 in this way. The Agreement does not mention Indigenous data sovereignty at all.¹ Instead, it speaks of Priority Reform 4 as being about supporting Aboriginal and Torres Strait Islander people to: participate as equals with government, drive their own development and hold governments to account for closing the gap (clause 69). The performance framework in table A also states the outcome for Priority Reform 4 as:

Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development.

Governments have committed to achieving these aims through the agreed jurisdictional actions and the community data projects.

The jurisdictional actions and the establishment of community data projects are not in conflict with an overall objective of enhancing Indigenous data sovereignty, and, if delivered successfully (as defined by Aboriginal and Torres Strait Islander people), could arguably go some way towards enabling Aboriginal and Torres Strait Islander people to exercise data sovereignty. For example, 'partnerships ... to improve collection, access, management and use of data' (clause 72a) could result in transfers of custodianship of data to Aboriginal and Torres Strait Islander people, where Aboriginal and Torres Strait Islander people would have control over this data.

It may be the case that the way in which Priority Reform 4 is set out in the Agreement allows for an interpretation that encompasses the range of activities required to bring about the realisation of Indigenous data sovereignty, despite the absence of an explicit commitment. At least one government – the NSW Government – has emphasised the importance of Indigenous data sovereignty in its approach to

¹ The only mention of Indigenous data sovereignty is in the data development plan for the Agreement, in which one of the guiding principles for data development prioritisation over the life of the Agreement is the ethical use of data which acknowledges Aboriginal and Torres Strait Islander-led work about Indigenous data sovereignty and Indigenous data governance.

implementing Priority Reform 4. Others have noted the relevance of Indigenous data sovereignty to Priority Reform 4, and/or made specific commitments relating to it (box 4).



Box 4 – Governments have focused on Indigenous data sovereignty to varying degrees

In their implementation plans, governments have considered how Indigenous data sovereignty relates to Priority Reform 4 to varying degrees.

- One government – the NSW Government – has explicitly emphasised the importance of Indigenous data sovereignty in its approach to Priority Reform 4. Its first implementation plan states that ‘achievement of Priority Reform 4 rests upon a shared sound understanding of the crucial role that Aboriginal and Torres Strait Islander data sovereignty plays, and adoption of robust data governance protocols and principles’ (p. 32). Its second implementation plan also commits the NSW Government to developing a roadmap that sets out a shared understanding of what Indigenous data sovereignty and governance means in New South Wales, and developing a model to implement the principles of Indigenous data sovereignty and governance in practice (pp. 51–52).
- Some governments have made commitments relating to Indigenous data sovereignty, and/or noted or alluded to its relevance in implementation plans. For example:

The Victorian Government’s implementation plan sets out an action by the Department of Land, Water and Planning to ‘explore what Indigenous data sovereignty, as committed to in the Government’s Self-Determination Reform Framework, means to Traditional Owners within Victoria in relation to [the Department of Environment, Land, Water and Planning]’ (p. 91).

The Australian Government’s second implementation plan contains a general commitment to ‘providing meaningful change in relation to Indigenous data sovereignty and Indigenous data governance, and working with other levels of government, and other sectors and entities, to make practical changes’ (p. 30).

The WA Government’s implementation plan does not explicitly mention Indigenous data sovereignty, but states that Priority Reform 4 ‘involves sharing government-held data – as well as supporting the capacity of Aboriginal organisations and communities to collect, manage and use data themselves. This acknowledges that historically, governments have held information about Aboriginal people without sharing it – and this must change in order to further empower Aboriginal people to make and participate in decisions about their futures’ (p. 33).

- The Queensland Government’s second implementation plan notes the development of the First Nations Health Equity monitoring and evaluation framework, which ‘will be underpinned by the principles of Aboriginal and Torres Strait Islander data sovereignty’ (p. 11).

- Other governments have not publicly acknowledged the relevance of Indigenous data sovereignty to Priority Reform 4 at all. For example, the SA, Tasmanian, NT and ACT Governments’ implementation plans make no mention of Indigenous data sovereignty.

Sources: ACT Government (2021); Australian Government (2021, 2023); Government of Western Australia (2021); NSW Government (2021b, 2022); NT Government (2021); Queensland Government (2021, 2023); SA Government (2021); Tasmanian Government (2022); Victorian Government (2021).

However, the absence of an explicit commitment also means that governments are not *obliged* to adopt policies that facilitate Indigenous data sovereignty, beyond what is named in the Agreement. This is

particularly relevant for those governments that have not publicly acknowledged or taken any steps to develop an understanding of how Indigenous data sovereignty can be realised through changes to government policy.

There are clearly overlaps between what governments have committed to do under Priority Reform 4 and the concept of Indigenous data sovereignty. However, the Agreement is not clear on whether, and to what extent, Indigenous data sovereignty is the objective of Priority Reform 4. The Commission is seeking additional information on how the Agreement currently reflects the concept of Indigenous data sovereignty and what would change (in terms of the actions required of governments) if it were to be amended to include an explicit commitment to Indigenous data sovereignty.

The lack of clarity about what Priority Reform 4 is aiming to achieve is perhaps one reason that governments' implementation plans largely lack the ambition to change how Aboriginal and Torres Strait Islander people's data is managed across governments. The Commission has observed that governments' implementation plans in relation to Priority Reform 4 overwhelmingly contain a collection of activities loosely related to data, but do not clearly articulate how these work together to engender change. Further, these actions generally fall well short of what Aboriginal and Torres Strait Islander people have been calling for regarding changes to enable them to access and use data to set and monitor efforts to close the gap, pursue their own priorities and drive their own development.

The rest of this paper assesses governments' progress against Priority Reform 4, focusing on whether they are fulfilling their commitments as currently written, with a view to identifying whether and where additional effort is needed to meet the expectations of Aboriginal and Torres Strait Islander people.



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?

What actions are governments undertaking to implement Priority Reform 4?

Government actions relating to Priority Reform 4 comprise both discrete programs and policies, and changes to the way government agencies operate. Actions gathered by the Commission, drawn from implementation plans, engagements, submissions and the Commission's own research, largely fall into the following types of initiatives:

- **the development of data sharing legislation and frameworks**, such as the WA Government's Privacy and Responsible Information Sharing Legislation, which aims to reform personal privacy protections and the accountability of information sharing within government (box 5), and the Australian Government's Framework on the Governance of Indigenous Data, which focuses on the governance of data about Aboriginal and Torres Strait Islander people held by Australian Government agencies
- **the development of data dashboards and portals**, which aim to collate and present data in an accessible way. Examples include interactive dashboards on housing data in New South Wales, and the Queensland Health Planning Portal

- **the co-development of data reporting and evaluation frameworks**, such as the *Dhelk Dja* monitoring, evaluation and implementation plan in Victoria, the *Local Thriving Communities* monitoring and evaluation framework in Queensland
- **place-based data projects**, such as the community data projects under the Agreement (discussed in section 5), and the community data projects being conducted by the Indigenous Data Network
- **initiatives to build data capability**, such as the initiative in South Australia to embed the Five Safes Framework (a multi-dimensional approach to managing data disclosure risks) into Aboriginal community-controlled organisations' (ACCOs') operations, and support in Victoria for Aboriginal maternal and child health services to access the Child Development Information System.

2 How are governments sharing the data they hold with Aboriginal and Torres Strait Islander people?

Governments hold a range of data to support their functions, including:

- administrative data – data collected as part of administering policies and programs, including details about people receiving services and their interactions with service systems
- performance data – data that reports against the performance indicators of policies and programs, such as the National Key Performance Indicators for Aboriginal and Torres Strait Islander primary health care
- survey data – data from responses to surveys designed by statistical agencies such as the Australian Bureau of Statistics. Examples include the Census of Population and Housing, and the General Social Survey.

Aboriginal and Torres Strait Islander communities and organisations can require access to data held by governments for a range of reasons, including to understand what is happening in their region, and to plan or coordinate service delivery. In the context of the National Agreement on Closing the Gap, government-held data is one source of data that can support Aboriginal and Torres Strait Islander people to participate as equals in partnerships and shared decision-making, build the Aboriginal community-controlled sector, and hold governments to account for their transformation (clause 69). Other sources of data, such as community-collected data, can also be (and often is) important. This section discusses governments' efforts to enhance the availability of data they hold to Aboriginal and Torres Strait Islander people, with efforts to reform governments' data systems and practices, and to support Aboriginal and Torres Strait Islander people's data capability, discussed in sections 3 and 4 respectively.

Governments are making efforts to be more transparent about what data they hold

The first step in gaining access to government-held data is knowing what data governments hold. Governments are seeking to be more transparent about what data they hold in several ways.

- **Through open data websites and other publicly-available avenues.** For example, all jurisdictions except Tasmania have whole-of-government open data portals, in which users can search for datasets held by government agencies, by agency, topic and file format, among other things.
- **By establishing services that allow users to request data or that direct users to data of interest.** For example, in its second implementation plan, the NSW Government (2022, p. 49) signalled its intention to establish a data connector service, which would take data requests and co-ordinate responses across government to enable access to data.
- **By engaging with Aboriginal and Torres Strait Islander people and organisations through specific initiatives.** For example, as part of the community data projects (section 5), the Department of Social

Services is undertaking foundational work to establish a data inventory, which will identify what data the department holds about Aboriginal and Torres Strait Islander people, and assist communities to conceptualise, articulate and frame their data requests, among other things (Department of Social Services, pers. comm., 26 June 2023).

The most suitable way for governments to provide information about what data they hold depends on the context. Where data users' technical capability is relatively high, or research questions are not yet well defined, publicly available or broad overviews of the types of data held by government may be better suited to Aboriginal and Torres Strait Islander people's needs than tailored communication. However, there may also be a role for governments to 'triage' information about what data it holds when communicating with Aboriginal and Torres Strait Islander people. The Department of Education, for example, said that when engaging with organisations participating in the *Connected Beginnings* program, it used a series of community-led indicators to provide a curated list of government-held data, which removed the need for communities to sift through large amounts of data unlikely to be of interest (Department of Education, pers. comm., 14 June 2023). In determining how to provide communities with information about what data governments hold, the capacity and capabilities of the relevant people and organisations to undertake data work are a key consideration. Governments must also ensure they have the cultural capability required to identify data of interest and communicate this information to Aboriginal and Torres Strait Islander people.

Some policy changes have been made to increase data sharing

In recent years, there has been a spate of activity aimed at increasing the sharing of public sector data. This includes the enactment of legislation aimed at increasing the sharing and use of public sector data (box 5). Governments have sought to increase the availability and use of this data while ensuring safeguards that maintain the trust of the Australian community.

However, these efforts have largely been focused on governments sharing data with each other, rather than with people and organisations outside government. An exception to this is the South Australian legislation, which allows the Minister to make data sharing agreements with certain non-government entities.

And despite all this activity, the Commission heard that access to government-held data continues to be difficult for Aboriginal and Torres Strait Islander organisations. For example:

- an Aboriginal foster care agency said that the government agency in its jurisdiction would not share child protection files with it so that it could effectively undertake its work in kin and foster care. This is despite the organisation receiving government funding to deliver these services
- an Aboriginal community-controlled health organisation said that government legislation and policy, as well as IT infrastructure rules, means that it cannot have access to certain data
- an ACCO that provides alcohol and drug support and family and justice services said that governments don't share the data they hold in relation to justice. As a result, this organisation is unable to ascertain whether its justice reinvestment programs are working.



Box 5 – Legislation to increase the sharing of public sector data

The *Data Availability and Transparency Act 2022* (Cth)

The *Data Availability and Transparency Act 2022* (DAT Act) came into effect on 1 April 2022. The Act establishes the DATA Scheme, under which Australian Government bodies are authorised to share public sector data that they control with accredited users. Accredited users are Australian, state and territory government bodies and Australian universities who are accredited to obtain and use Australian Government data (ONDC 2023a). Data obtained by accredited users must only be used for three purposes: to deliver government services, to inform government policies and programs, and for research and development (DAT Act, section 15(1)). The scheme also establishes accredited data service providers (ADSPs), which are Australian, state and territory government bodies and Australian universities that can provide data integration, de-identification and secure data access services to support data sharing (ONDC 2023a).

The DATA Scheme does not oblige data custodians to share data requested by accredited users, but data custodians are required to consider and respond to all data requests within a reasonable period, and provide reasons for any refusal within 28 days. Any sharing under the scheme must also take place under a data sharing agreement that sets out how the parties will give effect to the data sharing principles outlined in the DAT Act, and how the project serves the public interest (ONDC 2023b).

The DAT Act also establishes the:

- National Data Commissioner, who provides advice and guidance about the scheme, provides education and support for best practice data handling and sharing, and performs regulatory functions in relation to the scheme (sections 41 to 45A)
- National Data Advisory Council, an advisory body to the National Data Commissioner in relation to sharing and use of public sector data (section 61).

The *Data Sharing (Government Sector) Act 2015* (NSW)

The *Data Sharing (Government Sector) Act 2015* was introduced in 2015 in recognition of the need to improve data sharing between NSW Government agencies (Department of Customer Service 2021, p. 7). It operates by overriding other laws that would otherwise prohibit the disclosure of data by government agencies (section 5(1)). However, agencies must continue to comply with privacy legislation (section 5(2)).

The Act authorises government agencies to share data with the Data Analytics Centre (DAC) or another government agency to enable data analytics work to be carried out relating to government policy making, program management, service planning and delivery, and to enable government agencies to better make policies, manage programs, and plan and deliver services (section 6(1)).

The Act also allows the Minister to direct government agencies to provide data to the DAC (section 7), or to provide information to the DAC about what data the agency holds (section 8). The DAC may share the results of data analytics work with the agency that provided it with the data, but not with any other agency, person or organisation (section 9).

The Act also establishes a set of data safeguards, including in relation to privacy and commercial-in-confidence information (part 3).



Box 5 – Legislation to increase the sharing of public sector data

The *Data Sharing Act 2017* (Vic)

The *Data Sharing Act 2017* creates a framework for the sharing and use of data held by Victorian Government bodies. It establishes the Chief Data Officer (CDO), whose role is, among other things, to conduct data integration and analytics to inform Victorian Government policy making, service planning and design; build capability in data analytics across the Victorian public sector; and lead and co-ordinate cross-jurisdictional data sharing and integration on behalf of the Victorian Government (section 7).

The Act allows the CDO to request any data or information held by Victorian Government agencies, unless it would prejudice national security, disclose the identity of a confidential source or someone in a witness protection program, or disclose investigative measures and procedures. Some agencies, known as ‘data sharing bodies’ (including departments, administrative offices and statutory agencies) must respond to requests from the CDO, either by providing the data or providing reasons for refusing the request. Other agencies, known as ‘designated bodies’ (judicial bodies such as courts and tribunals, for example), do not have to respond to a request from the CDO.

The Data Sharing Act aims to promote greater sharing and use of Victorian Government data by giving agencies clear permission to share identifiable data with the CDO and departments, or share data that would otherwise be subject to secrecy provisions. Data shared with the CDO is only to be used for informing policy making, service planning and design. The Act does not allow data to be shared with community organisations or businesses (Department of Premier and Cabinet 2019).

The *Public Sector (Data Sharing) Act 2016* (SA)

The *Public Sector (Data Sharing) Act 2016* authorises South Australian public sector agencies to provide data they control to other public sector agencies to enable data analytics work to be conducted which relates to government policy making, program management and service planning and delivery (section 8(1)(a)). It also allows data sharing between agencies to facilitate, develop, improve and undertake policy making, program management and service planning and delivery (section 8(1)(b)). The Public Sector (Data Sharing) Regulations 2017 further allow data sharing for the purposes of assisting in law enforcement and emergency planning and response, and for including photographs in licences, identity documents and other similar documents (section 7).

The Act also allows the Minister to enter into data sharing agreements with certain entities (section 13), including those that have been engaged by the South Australian Government to provide services on behalf of the government, or entered into an agreement with government to provide a community service (section 8A of the regulations).

Both the authority to share data and the ability to share data under a data sharing agreement with the Minister under the Act override any other law that would otherwise prohibit government agencies from sharing data (sections 5(1) and 13(5)).

The Act also:

- sets out the trusted access principles for sharing and using public sector data under the Act (section 7)
- establishes data sharing safeguards (for example, in relation to confidential or commercially sensitive information) (sections 10 to 12)



Box 5 – Legislation to increase the sharing of public sector data

- restricts the further use of data provided under the Act (section 14), except under particular circumstances, such as where the Minister, after consultation with the data provider, approves the use or disclosure (section 14(1)(a)).

Privacy and Responsible Information Sharing Legislation (WA)

The WA Government has announced its intention to develop Privacy and Responsible Information Sharing Legislation. In December 2022, it released a factsheet stating that the aim of the legislation was to reform personal privacy protections and the accountability of information sharing within government. Among other things, the legislation intends to introduce:

- a statutory mechanism for WA public sector agencies to share information
- responsible information sharing principles to ensure a consistent framework for the assessment of risks and benefits associated with a data sharing arrangement
- a Chief Data Officer to promote and support a culture of responsible information sharing and use a mechanism that supports Aboriginal data sovereignty and governance, which will require that Aboriginal people and communities are involved or consulted when data about them is shared (Government of Western Australia 2022).

The main impediment to Aboriginal and Torres Strait Islander people obtaining government-held data appears to be government officials' attitudes towards data sharing, rather than particular laws or policies. This is consistent with previous findings by the Commission relating to data sharing in general (PC 2017, pp. 137–138). The need to change government officials' attitudes towards data sharing is discussed later in this section.

Even if the impediments were laws and policies, however, governments themselves design and implement these, and can change them if they are not producing desired outcomes. The possibility that laws and policies need to change to enable better data sharing with Aboriginal and Torres Strait Islander people is also discussed later in this section.

Visual tools are making data more accessible

Another way in which data is being made more accessible is through the development of better visual tools, such as dashboards. The proliferation of visual tools to present government data has been evident for both data relating to Aboriginal and Torres Strait Islander people, and data about the Australian community generally. Visual tools presenting government-held data about Aboriginal and Torres Strait Islander people include:

- the Australian Institute of Health and Welfare's *Regional Insights for Indigenous Communities* website (box 6)
- the Department of Infrastructure, Transport, Regional Development, Communications and the Arts' *Progress in Australian Regions and Cities* dashboard
- dashboards designed to support specific initiatives (both government and community-led), such as *Connected Beginnings* and the Maranguka Justice Reinvestment project (box 3).



Box 6 – The Regional Insights for Indigenous Communities website

The Regional Insights for Indigenous Communities (RIFIC) website is a publicly available data visualisation tool developed by the Australian Institute of Health and Welfare (AIHW). It brings together a range of data about the health and wellbeing of Aboriginal and Torres Strait Islander people and communities, including data on population size and distribution, culture and language, education and work, health risk factors, health conditions, disability, life expectancy and mortality, housing circumstances, and health and health services.

The RIFIC website aims to allow local communities, services and policymakers to access accurate and locally relevant health and wellbeing data to make informed decisions. It brings together data from multiple government websites and reports, making it easier for users to find this data.

The website allows users to customise their search, and use maps or a list of locations to find regional statistics relevant to their communities or other locations of interest. These statistics can then be compared with those of other regions or states and territories, or with national statistics. Data are presented as user-friendly maps, dashboards and interactive visualisations.

The AIHW reported in its 2021-22 annual report that, since its public release in December 2021, the RIFIC website had been accessed by more than 6,000 unique users. Feedback from users and those who participated in user testing had also highlighted the benefit of having data from disparate sources in one place. The AIHW stated its intention to expand the RIFIC website to include other sources of data, including the 2021 Census.

Sources: AIHW (2022a, 2022b).

Dashboards do not necessarily increase the total amount of data available to users – the data on which dashboards are based may already be publicly available (for example, in the form of spreadsheets that are downloadable from agency websites), or able to be requested from agencies – although the ease with which this can be done varies. However, presenting data visually and developing interactive interfaces can make using and understanding data more intuitive – as Arthur submitted, ‘interactive functions have the potential to increase the analytical power of maps’ (sub. 26, p. 3). This can be particularly useful for people who are not well-versed in data analytics, or who have limited time to undertake data analysis.

Visual tools are most useful when they contain data of interest to users. Where tools are designed for, and accessible only to, a specific audience (such as participants in a place-based initiative), they can and should be tailored to the needs of these groups. However, publicly available tools (such as the RIFIC website – box 6) generally contain high-level statistics. They are unlikely to meet the specific data needs of all users, and should not be expected to do so. Instead, they should be understood as a means of gaining a general understanding of a topic, with more specific data requests needing to be pursued through other means, such as through direct requests to government agencies.

Government officials' attitudes towards data sharing need to change

As noted above, the main impediment to accessing government-held data appears to be government officials' attitudes towards data sharing. Governments' default position regarding data sharing needs to change from providing reasons as to why data cannot be shared, to being willing to share data unless there is a clear reason not to do so.

This may not result in governments sharing the data they hold in every instance – but the process to arrive at this decision should be characterised by openness, a desire to deeply understand data requestors' needs, and a willingness to explore alternative ways to provide data where there are genuine constraints, such as where small numbers cannot be released because this may result in the identification of individuals or families within communities.

Mindset change needs to occur at all levels of the public service. It is not enough for senior officials to agree in principle to the need to share data and declare this openness. Officials further down the hierarchy, who often hold the technical skills and knowledge on data and are charged with operationalising data sharing arrangements, also need to reorient the way they conceive of and perform their roles. This requires government and senior officials to create an appropriate authorising environment, and to support the capability of staff (discussed next).

The mindset change to increase willingness to share data is part of a broader need for governments to change how they engage with data as a policy tool, and with Aboriginal and Torres Strait Islander people on data-related issues. This broader change is discussed in section 3.

Public servants must be supported to shift their outlook

Public servants working with data can be highly proficient in the technical aspects of their roles. But if they lack a broader understanding of the strategic importance of their activities, they can make decisions that are at odds with the commitments of Priority Reform 4. For example, a narrow focus on complying with legal requirements and managing risks can lead to a culture of secrecy and convoluted processes for data access (PC 2017, pp. 142–144).

Senior leaders have a critical role to play in communicating that, while the protection of privacy is important, the sharing of public sector data with Aboriginal and Torres Strait Islander people is part of a broader agenda to improve the life outcomes of Aboriginal and Torres Strait Islander people. In effect, they need to raise the profile of the Agreement and Priority Reform 4. The aim of this communication should be for public servants to realise that the context in which they operate has changed, and that they must reorient the way they view their roles and responsibilities when it comes to sharing government-held data about Aboriginal and Torres Strait Islander people.

At the same time, internal policies and procedures must reinforce this message. For example, guidelines for data sharing may need to be developed to set clear expectations and support officials' confidence in sharing data.

The need to support public servants to change is not limited to data-sharing activities – it is also necessary for the systemic, transformative changes relating to data that are required as part of Priority Reform 4 (discussed in section 3).

To support the shift in attitudes needed to enhance public sector data sharing, legislation and policy relating to data sharing may need to change. This is because legislation and policy can promote data sharing by overcoming *perceived* barriers to data sharing arising from complex webs of legislation governing whether data can be shared (as many of the data sharing Acts in box 5 aim to do). Where other systemic barriers exist that are unable to be overcome through other means such as internal guidelines, changes to policy and

legislation may be able to effect change. The Commission is seeking information about whether, and how, legislation needs to change to support greater data sharing (information request 5).

In designing and implementing new data sharing legislation and policy, the potential burden on Aboriginal and Torres Strait Islander organisations – such as accreditation requirements to be eligible to receive public sector data – must be considered and managed.

3 How are governments changing the way they collect, hold, manage and use data?

As noted in section 1, Priority Reform 4 requires governments to change the way they undertake data-related activities to ensure that the use of data in policy decision making supports the priorities and needs of Aboriginal and Torres Strait Islander people. This requires engaging with Aboriginal and Torres Strait Islander people on data-related issues, including on what data is of most value to Aboriginal and Torres Strait Islander people. It also requires seeking Aboriginal and Torres Strait Islander people's perspectives on how data should be governed and incorporating these views into the way data is used to inform policy.

Priority Reform 4 does not prescribe what actions governments need to take to change the way they collect, hold, manage and use data. Rather, the guiding principle is one of partnership – the jurisdictional actions require governments to 'establish partnerships between Aboriginal and Torres Strait Islander people and government agencies to improve collection, access, management and use of data ...' (clause 72b). As noted in box 2, Indigenous data governance can take many forms; this, in turn, means that the way governments' data systems and practices need to change can be equally varied. Partnerships to guide what change is needed should embed the strong partnership elements outlined in Priority Reform 1, which includes inclusive and open dialogue where governments listen to the priorities of communities and give weight to the perspectives and lived experiences of Aboriginal and Torres Strait Islander people.

Some of the changes required of governments will relate to the technical qualities of data, such as its accuracy and the extent to which variables are clearly defined and specified. Technically high-quality data is necessary to conduct valid statistical analysis and inform effective decision making.

However, Priority Reform 4 also requires governments to grapple with the political dimensions of data – whether data is specified and used in the 'right' way, according to the values and world views of users. As Walter and Carroll explain:

... statistics are human artifacts ... Their reality emerges ... via the social, racial and cultural standpoint of their creators. (2020, p. 2)

Standpoints between Aboriginal and Torres Strait Islander people and non-Indigenous people can differ, which can lead to differing ideas about what data is best suited to measure policy outcomes and how this data should be interpreted. The commitment under Priority Reform 4 to change data systems and practices requires governments to understand these differing perspectives, and the imbalances of power that have led to decisions about data (and decisions made using data) that are ill-suited to Aboriginal and Torres Strait Islander people's needs.

To the Commission's knowledge, the question of *how* Aboriginal and Torres Strait Islander people's ways of conceiving of and governing data should be incorporated into official policy decision-making processes has not yet been fully resolved. In particular, using data in a way that reflects Aboriginal and Torres Strait Islander people's priorities and ways of knowing may not be consistent with the priorities and ways of knowing relevant to the broader Australian population. Where policies and programs affect the Australian

community as a whole (that is, not just Aboriginal and Torres Strait Islander people), it is not clear how two potentially different ways of using data can or should be brought together to make individual policy decisions.

Further, where governments are governing data on behalf of the Australian community as a whole, there is a question of how government officials can effectively incorporate Aboriginal and Torres Strait Islander people's ways of governing data into their activities, given that Indigenous data governance is rightly exercised by Aboriginal and Torres Strait Islander people alone. Efforts by governments to govern data as Aboriginal and Torres Strait Islander people would could be seen as inappropriate, even if the government officials undertaking these activities are Aboriginal and/or Torres Strait Islander people and the data is being used in ways that lead to better outcomes for Aboriginal and Torres Strait Islander people. Further work is needed to resolve how the governance of data about Aboriginal and Torres Strait Islander people can work alongside the governance of data about the Australian population as a whole, to allow Aboriginal and Torres Strait Islander people to exercise Indigenous data governance over the data about them.

This section does not attempt to resolve these questions. Even without full clarity on how different ways of governing data can co-exist when policy affects the whole Australian community, the Agreement clearly requires governments to change the way data about Aboriginal and Torres Strait Islander people is governed to inform policy. The discussion below canvasses the extent of this change.

Governments have not reformed the way they exercise power over data about Aboriginal and Torres Strait Islander people

The Commission heard that, by and large, governments have not given sufficient weight to Aboriginal and Torres Strait Islander people's ways of understanding and using data when designing and evaluating policy. For example, an Aboriginal organisation that advocates for Traditional Owners said that government did not accept the data it presented as the type of evidence needed to substantiate change. The Commission also heard that key performance indicators for programs and services sometimes failed to reflect what Aboriginal and Torres Strait Islander people considered relevant in measuring success – for example, an ACCO said that the key performance indicators for its programs were so broadly defined that they did not allow its successes to be highlighted. Another Torres Strait Islander service provider said that it would prefer to measure the number of hours spent with clients, as it considered this to be a more meaningful indicator of the effort required to service clients, but was instead required to count the number of clients served.

Governments also sometimes did not accept the data collected by Aboriginal organisations as accurate or of sufficient quality to inform policy decisions. One Aboriginal community-controlled health organisation recounted an instance in which governments' first response upon receiving data from the organisation was to question its accuracy.

As a result of governments' inability to value Aboriginal and Torres Strait Islander people's ways of knowing and incorporate this into decision-making about how data is designed, the data that is used to inform government policies and programs can be inaccurate, or conceptualised in a way that is not meaningful to Aboriginal and Torres Strait Islander people. For example, the Commission heard that the geographical classifications used for data sometimes did not align with what communities considered meaningful – data on distinct communities were sometimes amalgamated, or data was not sufficiently disaggregated to see what was happening at a local level.

In some cases, the data that Aboriginal and Torres Strait Islander people considered important in developing policy does not exist. One example given by an Aboriginal legal service was the lack of data on trauma for Aboriginal and Torres Strait Islander boys and men.

Efforts to incorporate Aboriginal and Torres Strait Islander people's ways of knowing into data activities are nascent

Some government agencies and officials *are* starting to appreciate the importance of valuing Aboriginal and Torres Strait Islander people's ways of knowing – the Commission observed some efforts to better understand Indigenous data sovereignty and what this means in practice (box 4). However, this was not evident in all jurisdictions or across all policy areas – activity was generally limited to specific pockets of government. Only New South Wales demonstrated an intention to understand what Indigenous data sovereignty meant at a whole-of-jurisdiction level, although this work is in its very early stages. As noted in box 4, some governments have not publicly acknowledged the relevance of Indigenous data sovereignty to Priority Reform 4, nor indicated any intention to further understand what it means.

Some governments have also taken steps to change systems and practices in response to Aboriginal and Torres Strait Islander people's ways of using data, although many of these are relatively nascent. Examples include the development of the Framework on the Governance of Indigenous Data (box 7) and the Ngaramanala: Aboriginal Knowledge Program (box 8).



Box 7 – The Framework on the Governance of Indigenous Data

The Australian Government, in partnership with Aboriginal and Torres Strait Islander representatives, is developing an Australian Public Service Framework on the Governance of Indigenous Data, which aims to improve the accessibility, relevance, interpretability, and timeliness of government-held data for First Nations peoples. The framework is being developed by key First Nations stakeholders, non-APS experts in the field of Indigenous data and Australian Public Service members with relevant expertise. It will focus on improving data quality; enabling access; supporting digital capability; developing strategies, systems and structural approaches; and implementing data access and transparency (Australian Government 2022).

The framework explores the practical intersection between the objectives of the Indigenous data sovereignty movement and government-held data for First Nations peoples. It does not seek to define the term 'Indigenous data sovereignty' for Indigenous peoples, nor redefine the term for a public sector audience (NIAA, pers. comm., 27 April 2023).



Box 8 – The Ngaramanala: Aboriginal Knowledge Program

Ngaramanala means 'let's see, hear, think and gather Indigenous knowledge' in Gadigal language. The Ngaramanala: Aboriginal Knowledge Program (*Ngaramanala*) is an initiative within the NSW Department of Communities and Justice (DCJ) that aims to:

- understand the concepts of Indigenous data sovereignty and Indigenous data governance
- recognise the historical, and sometimes current, misuse of data about Aboriginal peoples and understand the historical, political, social and cultural context of data



Box 8 – The Ngaramanala: Aboriginal Knowledge Program

- identify ways that the principles of Indigenous data sovereignty and governance can be incorporated into DCJ policies and programs
- improve how evidence and data about and impacting on Aboriginal peoples is collected, used and governed within DCJ
- develop frameworks, tools and research that allows DCJ to see the strengths, challenges and resilience of Aboriginal peoples.

The origins of *Ngaramanala* lie in a working group established in 2019 by the *Transforming Aboriginal Outcomes* and *Families and Communities Services Insights, Analysis and Research* (FACSIAR) units of DCJ. This working group, then known as the Aboriginal Knowledge Program, sought to investigate the concept of Indigenous data sovereignty and work in a new way that demonstrated courage, collaboration and respect. The program was renamed *Ngaramanala* in late 2019.

Ngaramanala has successfully advocated for the inclusion of Indigenous data sovereignty and governance in a range of NSW Government and DCJ strategies, including DCJ's *Research Strategy 2020–25*, DCJ's *Information Strategy 2021–24* and the *NSW Data Strategy 2021*. For example, one of the research priorities in DCJ's research strategy is to 'support Aboriginal-led research and the principles of Indigenous data sovereignty' (NSW Department of Communities and Justice nd, p. 21), which includes providing Aboriginal researchers with access to administrative data held by DCJ, ensuring research is conducted according to the principles of Indigenous data sovereignty, and building an evidence base that embeds Aboriginal knowledges and voice.

Ngaramanala is also assisting the *Pathways of Care Longitudinal Study* (POCLS) to embed Indigenous data sovereignty and governance into the design, collection, analysis, dissemination and management of data relating to Aboriginal people. In 2020, this included:

- consultation with the Aboriginal Health and Medical Research Council to discuss how POCLS can update its processes, to understand what is considered current best practice and gather examples of best practice in other research projects
- understanding and developing priority out-of-home care policy questions to inform POCLS analysis projects
- facilitating the collaboration of contracted analysts and policy and practice colleagues, including Aboriginal colleagues, during the data analysis planning, analysis phase and interpretation of results
- consultation with Aboriginal stakeholders about the most appropriate way to develop culturally appropriate processes to draw the insights from the complete reports and translate findings into policy and practice.

Sources: NSW Department of Communities & Justice (2022; nd); NSW Government (2021a).

Governments need to change their mindset

Notwithstanding the examples above, in many cases, government officials still do not recognise the political dimensions of data – the role of data in influencing power dynamics in the development of policies that affect outcomes for Aboriginal and Torres Strait Islander people – and the commitment in the Agreement to rebalance these dynamics, including through the use of data. Data is often seen as 'just data', with no

acknowledgement that its creation and use arises out of assumptions about what is relevant, and that the data used to inform policy is chosen within political context that determines who gets to define relevance.

Government officials need to realise that Aboriginal and Torres Strait Islander people can have different ways of knowing that can result in various ideas about how (and what) data should be used to inform policy – such as what needs to be measured to determine if a program is meeting its objectives. Engaging with data in this way is likely to be novel to many officials, who are used to thinking only about the technical aspects of data. But understanding that data arises out of ways of knowing that dictate how data should be shaped and used, and that Aboriginal and Torres Strait Islander people can have different ways of knowing, is the first step in understanding why it is necessary for governments to change the way they use data when making policies affecting Aboriginal and Torres Strait Islander people. It is also a step towards understanding the scale of the change required to governments' data systems and practices, and the need to develop ambitious, cohesive strategies that clearly set out how actions will lead to the desired change. As noted in section 1, governments' implementation plans with respect to Priority Reform 4 largely do not demonstrate how their proposed set of actions work together to produce the change required.

Are there barriers to governments relinquishing control over data?

Governments have not demonstrated much appetite to change the balance of power surrounding the use of data to inform policies affecting Aboriginal and Torres Strait Islander people. Doing this would be the first step towards reforming government data systems and practices in a way that enables Aboriginal and Torres Strait Islander people to have a stronger voice over how data is used, and in a way that improves policy outcomes for Aboriginal and Torres Strait Islander people (which, in turn, has benefits for governments and the Australian community more broadly).

However, there may also be a need to remove barriers in policy and legislation to this end. For example, legislation that confers data custodianship upon a government agency may hinder its ability to truly transfer control to Aboriginal and Torres Strait Islander organisations. Similarly, legislation and policy may need to allow for shared decision-making between governments and Aboriginal and Torres Strait Islander people around the release of data.

The Commission has not identified any specific barriers in legislation or policy to governments relinquishing control over data, and is seeking information on what these may be.



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?

4 How are governments supporting Aboriginal and Torres Strait Islander people and organisations to build data capability?

Support to build data capability has been insufficient

A crucial complement to government-held data in informing policy affecting Aboriginal and Torres Strait Islander people is data collected by Aboriginal and Torres Strait Islander people and organisations, which is more likely to align with Aboriginal and Torres Strait Islander people's values, priorities and realities. However, support for Aboriginal and Torres Strait Islander people and organisations to build and strengthen the capability to collect and use this data has been insufficient.

The Commission heard several examples of Aboriginal and Torres Strait Islander organisations not being supported to build data capability. For example, one Aboriginal organisation said that it wanted to collect its own data, but did not have the resources to employ someone to do so. Another also commented that Aboriginal peak organisations were in a unique position to lead data linkage projects, but did not have the funds to do so. And one Aboriginal community-controlled health organisation said that it was not able to find support for a project to model demand for its clinics.

The Commission heard that building the data capability of Aboriginal and Torres Strait Islander organisations was often a lower priority for governments than service delivery, even though communities had identified data capability as a priority, and the data activities communities wanted to undertake were essential in designing and delivering services that improve outcomes.

Some capability is being built through program partnerships

One small-scale way in which governments are supporting the capability of Aboriginal and Torres Strait Islander people is through existing program partnerships. Several government agencies reflected to the Commission that, sometimes, Aboriginal and Torres Strait Islander people and organisations 'did not know what they did not know' when it came to data, and that the presence of a partnership served as a point of contact through which people were able to navigate what data they needed and how this could be used to answer questions of interest.

The Department of Education, in the context of the *Connected Beginnings* program, also noted that, in its experience, relationships were a crucial component in any system-wide change to support capability and make government-held data more available to Aboriginal and Torres Strait Islander organisations (Department of Education, pers. comm., 14 June 2023). It was not a matter of having either relationships or systemic change – both were needed to improve the ability of Aboriginal and Torres Strait Islander people to obtain the data they needed and effect change through its use.

More support to build capability could take a number of forms

The collection, access, analysis and dissemination of data requires a specific set of skills. Governments must dedicate funding and resourcing if these skills are to be built or strengthened within Aboriginal and Torres Strait Islander organisations and communities.

Support for developing data capability could take a number of forms. For example:

- as noted above, one way in which capability can be built is through partnerships that facilitate communication and collaboration on data-related issues between government agencies and Aboriginal

and Torres Strait Islander organisations. However, this will not be appropriate or possible in all circumstances, as it requires a partnership to exist or be developed

- staff secondments from government agencies to Aboriginal and Torres Strait Islander organisations, and vice-versa, could also facilitate skills and knowledge transfer
- the provision of funding specifically dedicated to data activities and capability building could be required to bring Aboriginal and Torres Strait Islander-led data projects and ways of using data to fruition. As demonstrated in box 3, where Aboriginal and Torres Strait Islander data governance is recognised and resourced, organisations can have significant latent capacity to articulate and manage complex data projects. This can include the collection of data for monitoring and evaluation of government-funded services and programs delivered by ACCOs.

The most appropriate way to support Aboriginal and Torres Strait Islander organisations to develop and strengthen data capability will vary by context. What is important is that supports are designed in partnership with Aboriginal and Torres Strait Islander people in line with their needs and priorities, and that existing capability is recognised.

5 The community data projects are behind schedule

Under Priority Reform 4, parties to the Agreement agreed to establish community data projects in up to six locations across Australia by 2023.

None of the community data projects are likely to be fully established by the end of 2023. As at July 2023, all locations had been decided. These are: Blacktown City Council local government area (Blacktown LGA), New South Wales; Doomadgee, Queensland; the Kimberley, Western Australia; the western suburbs of Adelaide, South Australia; Maningrida, Northern Territory; and Gippsland, Victoria.

With the exception of Blacktown LGA, the location of the community data projects were chosen through nomination by Aboriginal and Torres Strait Islander peak organisations, or by the community itself (box 9).



Box 9 – How were locations for the community data projects chosen?

Blacktown LGA, New South Wales

Blacktown LGA was selected as the location of the community data project in New South Wales as a result of a negotiation process between the NSW Government and the NSW Coalition of Aboriginal Peak Organisations (NSW CAPO).

The NSW Government advocated for Blacktown LGA to be the site of the community data project because of the concentration of Aboriginal and Torres Strait Islander people living in the area – Aboriginal and Torres Strait Islander people make up 3% of the population of Blacktown LGA (Blacktown City Council 2023). NSW CAPO considered a number of other regions, and ultimately agreed to hold the community data project in Blacktown LGA because of the unique demography of the area (in contrast to the locations of community data projects in other jurisdictions) and the concentration of services in the area (NSW CAPO, pers. comm., 10 July 2023).

The Kimberley, Western Australia

The Kimberley was nominated as the site of the community data project in Western Australia by the Aboriginal Health Council of Western Australia, based on a desire to do work related to the Western



Box 9 – How were locations for the community data projects chosen?

Australian Coroner's 2019 inquest into the 13 deaths of children and young persons in the Kimberley region (WA DPC, pers. comm., 5 July 2023), which found that the cause of death for twelve of these cases was suicide (Coroner's Court of Western Australia 2019, p. 8). The nomination was supported by the Aboriginal Advisory Council Western Australia (WA DPC, pers. comm., 5 July 2023). Given this context, the proposed focus of the Kimberley data project was to improve the collection of and access to data on suicide and self-harm.

Doomadgee, Queensland

The selection of Doomadgee as the site of Queensland's community data project resulted from Doomadgee being chosen as the location for the place-based partnership. As discussed in information paper 2, Goonawoona Jungai, a community-controlled organisation representing the voice of the Doomadgee community (Act for kids 2022), advocated for Doomadgee to host Queensland's place-based partnership, as there had already been significant community-driven activity in the town to transition the delivery of family services to community control. Goonawoona Jungai subsequently advocated to host the community data project, as it felt that it did not have the data to inform decision making on these services (Goonawoona Jungai, pers. comm., 4 July 2023).

The western suburbs of Adelaide

The western suburbs of Adelaide was chosen as the site for the data project in South Australia based on nomination by the South Australian Community Controlled Organisation Network (SAACCON). SAACCON nominated this site because it considered that it had an adequate 'footprint' in the area – it has twelve members delivering services in this area. SAACCON considered that, in the absence of existing investment and involvement in a location, it would be very difficult to get ACCOs' buy-in to the project (SAACCON, pers. comm., 22 June 2023).

Maningrida, Northern Territory

Maningrida was endorsed as the location of the Northern Territory's community data project (and place-based partnership) by the Northern Territory Executive Council of Aboriginal Affairs in November 2021. It was subsequently endorsed by the Joint Council on Closing the Gap in December 2021 (NT Government 2022). In selecting the location of the community data project (and place-based partnership – a decision had been made to pursue these in the same location), the Northern Territory Partnership Working Group explored several options, including Galiwin'ku and Yuendumu. Engagement was undertaken with Executive Regional Directors within the NT Office of Aboriginal Affairs to understand if these communities had the capacity to support a place-based partnership and community data project. Maningrida was subsequently chosen because of its size and the presence of strong community-controlled organisations, and was supported by community leaders (Northern Territory Government, pers. comm., 13 June 2023).

Gippsland, Victoria

The Victorian Partnership Forum endorsed Gippsland as the location of both the community data project and place-based partnership in April 2023, and Victoria nominated Gippsland as the location of the data project and place-based partnership at the Joint Council meeting in June 2023. The Victorian Government's 2023 annual report, released in June 2023, states that, over the next 12 months, the Victorian Partnership Forum will scope and endorse a detailed project proposal, which will form the basis of a 2024-25 State Budget submission (Victorian Government 2023, p. 16).

Projects where locations have been decided are at different stages of development.

- In March 2023, the Blacktown LGA project engaged with community organisations to discuss data sharing opportunities and priorities. Community-led discussions about data priorities and governance are ongoing, and aim to define longer-term data sharing agreements and systems (NSW Government, pers. comm., 27 June 2023).
- A scoping report for the Kimberley data project was finalised in December 2022, which proposed a pilot phase. Discussions between the WA Government and relevant Aboriginal organisations are ongoing regarding next steps (WA DPC, pers. comm., 5 July 2023).
- The remainder of the projects are at the very early stages of community engagement.

The delay of the establishment of community data projects has been due to a myriad of largely unrelated (between projects) reasons. For example, the reason given for the delay in the South Australian project was that work to develop the partnership agreement between the SA Government and SAACCON had been ‘all consuming’ (SAACCON, pers. comm., 22 June 2023). In New South Wales, COVID-related events (including economic recovery) caused the project to stall in 2021 and 2022 (NSW CAPO, pers. comm., 10 July 2023).

Another reason that projects have not yet been fully established is that communities have needed time to articulate the specific purposes and goals of the projects. Governments have, rightly, sought to look to communities for leadership on the strategic direction of projects – what issues the data project should aim to address, what data communities require, and which organisations should participate, for example. Allowing sufficient time for communities to make decisions on these matters is a crucial precondition for success.

All projects will be supported by a community data portal, developed by the AIHW. So far, the AIHW has developed prototypes and provided demonstrations for two portals – one for the Blacktown LGA project and the other for the Kimberley project. The Partnership Working Group on Closing the Gap has also received nominations for portals for the western Adelaide and Doomadgee projects (AIHW, pers. comm., 21 June 2023). The community data portals aim to provide organisations participating in the data projects with access to location-specific data on the progress of Priority Reforms and Closing the Gap outcome areas to inform local decision-making, and to allow organisations to upload, see and analyse their own data in a protected way (Coalition of Peaks, pers. comm., 12 July 2023). The Commission heard that some Aboriginal and Torres Strait Islander people and organisations have expressed concern about whether community-controlled organisations will be able to retain control over their data once it has been uploaded to the portal. Questions about the governance arrangements of datasets uploaded to the portal remain unresolved.

Although the projects are unlikely to meet the timeline set, their progress looks to be promising, both in terms of embodying the requirements of the Agreement, and allowing governments to gain a deeper understanding of what success under Priority Reform 4 looks like. For example, governments have generally looked to Aboriginal and Torres Strait Islander partners or communities to lead and set the direction of projects. Governments are also allowing time for communities to come together to define the topic and scope of the projects, which is crucial for their success – projects must be ‘owned’ by the community, for the benefit of the community. A number of governments noted that they were looking to their community data projects to glean lessons for what the implementation of Priority Reform 4 might look like more broadly.

6 Summing up on progress

Overall, much more remains to be done to progress Priority Reform 4.

- Data sharing is arguably the simplest aspect of Priority Reform 4 and, while this is the area in which most activity to implement Priority Reform 4 can be observed, it is clear that progress is far from adequate. Governments generally remain reluctant to share the data they hold, and, as a result, Aboriginal and Torres Strait Islander people are unable to access the data they need.
- The limited progress on data sharing says nothing of the more difficult, transformative change required relating to governments' data systems and practices, and the partnerships between governments and Aboriginal and Torres Strait Islander people with respect to data. Governments first need to understand what is required of them – that they need to fundamentally change how they use data when designing and evaluating policies and programs affecting Aboriginal and Torres Strait Islander people, to value Aboriginal and Torres Strait Islander people's ways of using data. This requires engaging with Aboriginal and Torres Strait Islander people about what Indigenous data sovereignty means in practice, and developing strategies that coherently articulate how governments' ways of governing data will change and the actions needed to bring about this change.
- Finally, the data capability of Aboriginal and Torres Strait Islander people is crucial. Without it, Aboriginal and Torres Strait Islander people cannot engage with governments about how to successfully transform government data systems and practices, nor exercise data governance in line with what is needed to improve outcomes for Aboriginal and Torres Strait Islander people.

The community data projects are lighthouse initiatives for governments to learn what needs to be done to successfully implement Priority Reform 4. While these projects are unlikely to meet the timeline set out in the Agreement, they offer promise, and governments' persistence in progressing these projects in line with the expectations of the Agreement could deliver large dividends in informing implementation of Priority Reform 4 as a whole.

For the final report, the Commission aims to more fully address the question of whether Priority Reform 4 is, or should be, about Indigenous data sovereignty, drawing on participants' responses to the Commission's information request (information request 4).

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