

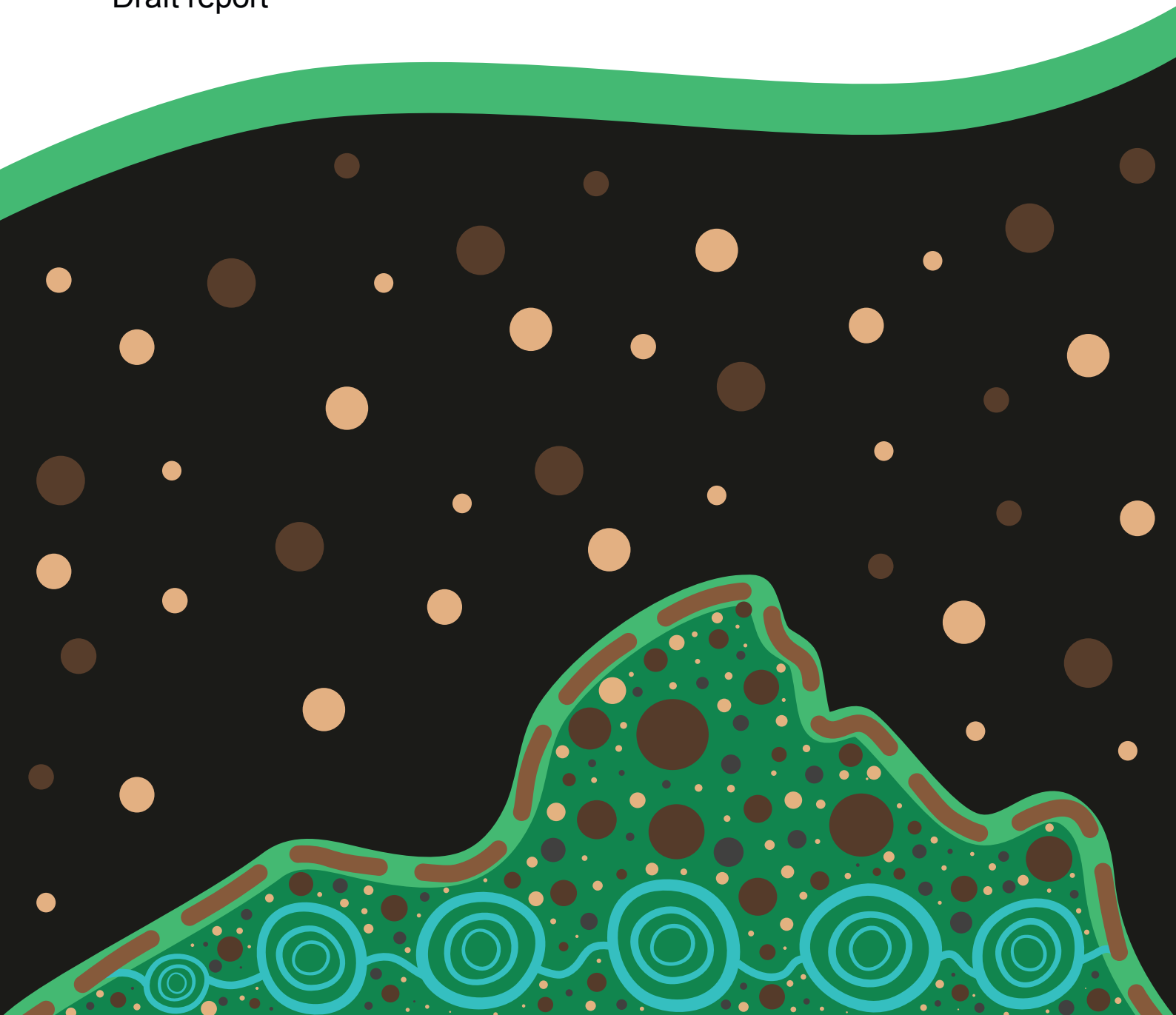


Review of the National Agreement on Closing the Gap

# Accountability for improving life outcomes for Aboriginal and Torres Strait Islander people

## Information paper 7

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.**

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## **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.

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## Key points

-  **The accountability mechanisms in the Agreement lack bite and are not sufficient to influence the type and scale of change required to improve life outcomes for Aboriginal and Torres Strait Islander people.**
-  **Governments are continuing to make decisions that contradict their commitments in the Agreement, that do not reflect Aboriginal and Torres Strait Islander people's priorities and perspectives and that exacerbate, rather than remedy, disadvantage and discrimination. The shortcomings of current accountability mechanisms mean that these types of decisions could continue to go unchecked.**
-  **New Aboriginal and Torres Strait Islander bodies are emerging that may be in a position to shine a spotlight on good and bad practices under the Agreement and advocate for improved policies, programs and services for Aboriginal and Torres Strait Islander people.**
-  **Recognising that government organisations cannot be relied on to transform on their own, the Agreement includes a commitment for governments to establish an independent mechanism to 'support, monitor, and report on the transformation of mainstream agencies and institutions'.**
  - There is lack of progress in establishing the independent mechanism and most jurisdictions are unlikely to 'identify, develop or strengthen' a mechanism in 2023, as the Agreement requires.
  - The independent mechanism may need an expanded role in overseeing all of the Agreement.
-  **Governments have not been adequately delivering on their responsibility for improving the public sector's relationship with Aboriginal and Torres Strait Islander people, and require accountability for making changes from within. The first recommended step to achieving this is to designate a senior leader or leadership group to drive jurisdiction-wide change.**
-  **Other ways of embedding responsibilities for driving action throughout the public sector being recommended or considered include:**
  - changing the core employment requirements of all public sector CEOs, executives and employees
  - ensuring central agencies lead changes to Cabinet, Budget, funding and contracting processes
  - establishing or enhancing sector-specific accountability mechanisms in key sectors
  - 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.
-  **Stronger accountability measures are designed to work alongside, and to complement, the Agreement and its Priority Reforms. These measures will only be effective if they are implemented in ways that are consistent with the Agreement, and centre Aboriginal and Torres Strait Islander people and perspectives.**
-  **Transparency is essential so that the community can clearly see how parties intend for their actions to deliver the objectives of the Agreement and lead to improved outcomes for Aboriginal and Torres Strait Islander people. To help achieve this, all government agencies should be required to report annually on the substantive activities they undertake to implement the Priority Reforms and the demonstrated outcomes of those activities.**
  - To improve transparency and make it easier to assess progress, governments should publish the stocktakes, expenditure reviews and other documents developed under the Agreement.

The National Agreement on Closing the Gap (the Agreement) is unlike other national agreements. It is the first that includes a non-government party as a signatory – the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks). It is ambitious in the scale of change required, calling for an unprecedented, structural shift in the way governments work with Aboriginal and Torres Strait Islander people.

In signing the Agreement, governments made a commitment – to Aboriginal and Torres Strait Islander people, to the Coalition of Peaks, to each other and to the nation – to ‘a fundamentally new way of developing and implementing policies and programs that impact on the lives of Aboriginal and Torres Strait Islander people’ (clause 4) and to do so ‘in a way that takes full account of, promotes, and does not diminish in any way, the cultures of Aboriginal and Torres Strait Islander people’ (clause 21). The ultimate end goal is to improve the life outcomes of Aboriginal and Torres Strait Islander people (clause 7). This paper considers how to ensure that governments fully understand, and are held accountable for delivering on, that commitment.

## **1 Governments are not consistently adhering to – and are sometimes disregarding – the Agreement**

### **Governments’ actions will not deliver the unprecedented shift they have committed to**

Governments have made varying levels of progress towards each of the Priority Reforms, socioeconomic outcomes and associated actions (information papers 2 to 6). But the overall picture is that governments’ current piecemeal actions will not deliver the fundamental transformation they have committed to.

In consultations, review participants told us that the implementation of the Agreement has not moved beyond business-as-usual, that progress is slow and that they are not seeing the types of action or understanding that will bring about real change (PC 2023b, p. 4). This concern was echoed in submissions from Aboriginal and Torres Strait Islander organisations. For example, Aboriginal Peak Organisations Northern Territory said:

The overwhelming message from APO NT and other Coalition of Peaks members is that the structural and transformative aims of the National Agreement are simply not being met. Despite many years of the National Agreement and predecessor COAG Agreements, government agencies are still resistant to change that promotes Aboriginal self-determination in principle and practice. And we know that self-determination provides the best means to better outcomes. (APO NT, sub. 10, p. 3)

Concerns about the omission of Aboriginal and Torres Strait Islander people and perspectives from key policy processes remain widespread. One example of this can be seen in response to the Intergenerational Report, a key document published by the Australian Treasury every five years which ‘examines the long-term sustainability of current policies and how demographic, technological and other structural trends may affect the economy and the budget over the next 40 years’ (Frydenberg 2021, p. xv). However:

... the 2021 report did not discuss the situation of First Nations people at all for any measure. There can be no excuse for this glaring omission. (McCallum, Orthia and Hosking 2023, p. 148)

Review participants also highlighted the wide gap between governments’ rhetoric and governments’ actions in implementing the Agreement.

... first nations arts and culture remain peripheral to the Closing the Gap Agenda. We hear language like ‘strong Aboriginal and Torres Strait Islander cultures are fundamental to improved life outcomes for Aboriginal and Torres Strait Islander people.’ But there are very few, if any, tangible policies and programs around implementing support for culture. (KALACC, sub. 23, p. 9)

The wide gap between governments' rhetoric and action appears to stem, in part, from a failure by governments to fully grasp the nature and scale of the change required to fulfil the Agreement. Despite some pockets of good practice, many parts of government are still operating in what amounts to a variation of business-as-usual, where their actions to implement the Agreement are simply tweaks of, or actions overlaid onto, existing systems, rather than root-and-branch transformations. This entails reconsidering and fundamentally re-evaluating existing ways of doing business, as opposed to trying to shoehorn business-as-usual into radical reform. Implementation plans and annual reports provide an incomplete picture of what governments are doing or not doing (information paper 6), and the Commission has not been able to conduct a detailed examination of what is happening inside every government organisation. However, based on the available information it is the Commission's assessment that whatever changes are being made are not yet leading to improvements that are noticeable and meaningful for Aboriginal and Torres Strait Islander people.

The absence of improvement is exacerbated by the lack of conceptual logic linking the myriad of small actions governments have listed in their implementation plans (some of which were already underway before the Agreement) with the large-scale, transformational change they have committed to under the Agreement.

## **Governments continue to act without regard to, and sometimes in contravention of, the Agreement**

The Agreement was signed in July 2020. In the three years since then, governments have continued to make decisions that contradict their commitments in the Agreement, that do not reflect Aboriginal and Torres Strait Islander people's priorities and perspectives and that exacerbate, rather than remedy, disadvantage and discrimination. Examples of such decisions are too easy to find.

- The Queensland Government made changes to bail laws that will mean more Aboriginal and Torres Strait Islander young people are incarcerated for longer periods of time. This is in the context of Queensland having one of the highest jurisdictional rates of Aboriginal and Torres Strait Islander young people in detention on an average day in 2021-22 (40.9 per 10,000 young people aged 10-17, compared to 22.3 per 10,000 nationally) (PC 2023a).
- IBAC (the independent broad-based anti-corruption commission) last year identified 'concerning patterns in how Victoria Police handles the investigation of complaints made by Aboriginal people and serious incidents involving Aboriginal people ... Victoria Police has considerable work to do to ensure that it investigates complaints and serious incidents involving Aboriginal people thoroughly and impartially' (IBAC 2022, pp. 8, 80).
- The UN Committee on Elimination of Racial Discrimination expressed concern that Western Australia did not adequately consult Aboriginal people before adopting its *Aboriginal Cultural Heritage Act 2021*. The committee noted 'the discretionary power attributed to the Minister of Aboriginal Affairs and the absence of effective remedies and legal redress for Aboriginal peoples to challenge his decisions will maintain the structural racism of the cultural heritage legal and policy scheme, which has already led to the destruction of Aboriginal cultural heritage in Western Australia' (Bossuyt 2021).
- In July 2022, the Northern Territory Government changed the alcohol restrictions that applied in over 400 'alcohol protected areas' (mainly remote Aboriginal communities) without adequate consultation with Aboriginal communities and against the advice of Aboriginal community-controlled organisations (ACCOs) in the Northern Territory (NTCOSS 2022).
- A Parliamentary Inquiry into Aboriginal cultural fishing in New South Wales found that NSW fisheries officers have a culture of targeting Aboriginal fishers for enforcement action due to a poor understanding of what constitutes cultural fishing. Aboriginal fishers have felt scared and harassed after being racially profiled, targeted and subject to over-surveillance by fisheries officers (NSW Legislative Council 2022, p. 19).

- In September 2022, the UN Human Rights Committee found that Australia's failure to adequately protect Torres Strait Islanders against adverse impacts of climate change violated their rights to enjoy their culture and be free from arbitrary interferences with their private life, family and home (information paper 4).

The shortcomings of current accountability mechanisms mean that these types of decisions could continue to go unchecked – changes are needed to strengthen governments' accountability to Aboriginal and Torres Strait Islander people and to drive more meaningful, effective and widespread action across government organisations.

## **2 Changes are needed to increase understanding of, and accountability for delivering, agreed reforms**

### **The Priority Reforms need to progress together**

Understanding why governments continue to act in ways that contradict the Agreement is necessary in order to put an end to the behaviour. An underlying cause appears to be that there is not widespread understanding of, and sufficient attention given to, two key points.

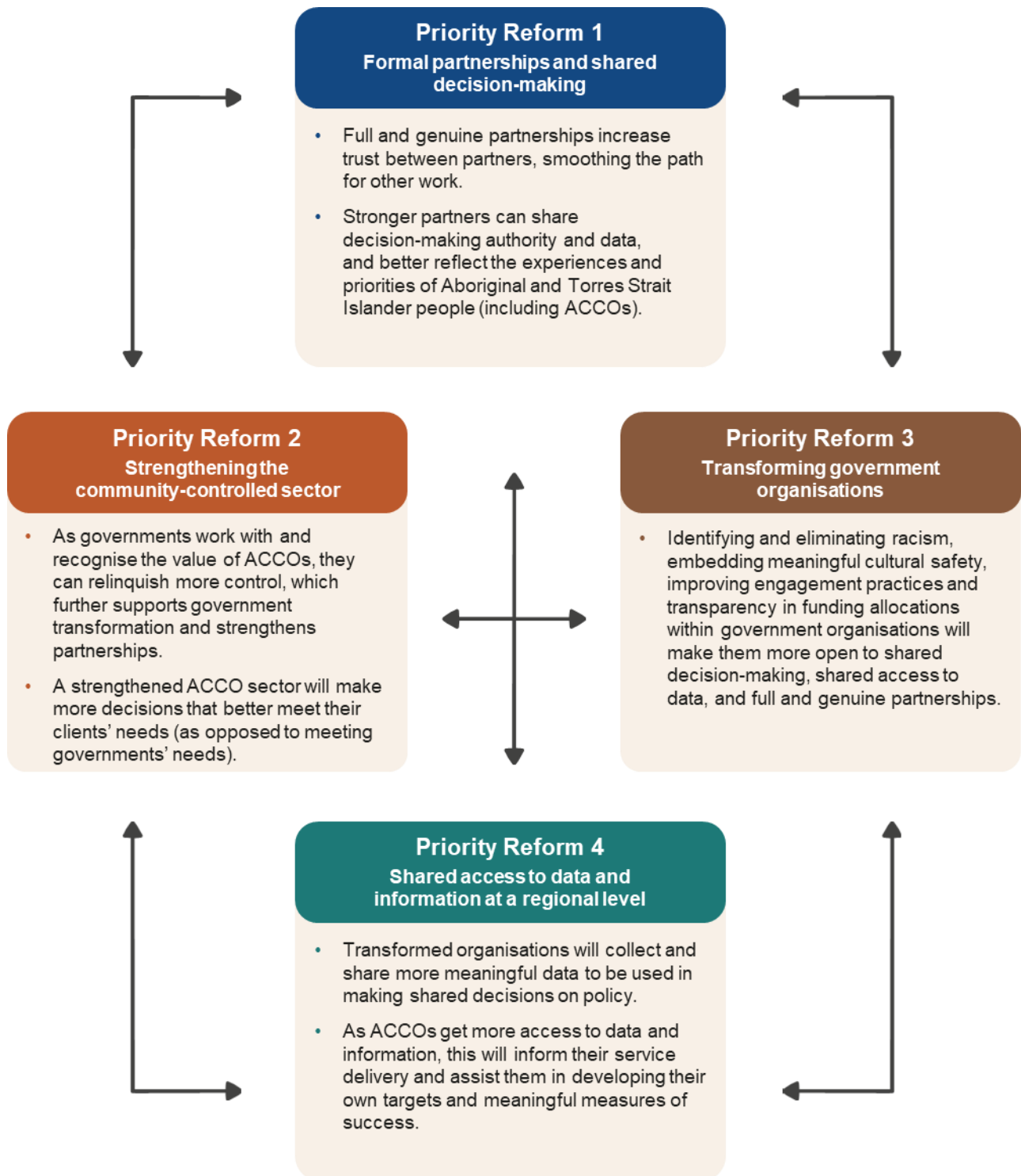
First, there is not a shared vision of what change should look like and the actions required to progress to that point. As noted in information paper 6, the Agreement does not explicitly articulate a conceptual logic linking the Priority Reforms that would enable a shared understanding of the intended changes. In particular, the Agreement does not describe how the Priority Reforms interact or how they will contribute to improved socio-economic outcomes. And in the main, governments have not demonstrated that they have grasped the depth and magnitude of change and self-reflection that the Priority Reforms require of them.

Second, there is little appreciation of the important connections between each of the elements of the Agreement. Each Priority Reform supports, and is supported by, the other Priority Reforms, with the ultimate aim of accelerating improvements in the lives of Aboriginal and Torres Strait Islander people (figure 1). But this interconnection is not explicitly recognised in the Agreement.

Interconnection adds difficulty and complexity to the reform task, and means that slow progress towards one of the Priority Reforms can stifle progress towards the other Priority Reforms. In particular, Priority Reform 3 is more than a complement for the other Priority Reforms, it is a critical prerequisite.

Interdependencies can also impede progress towards the outcomes envisaged in the Agreement. For example, in drawing attention to decline in outcomes for school readiness, adult incarceration, suicide, and children in out-of-home care since the signing of the Agreement, the Close the Gap campaign pointed out that 'a decline across any target area will only make the work to improving all outcomes more difficult' (sub. 17, p. 1). The interconnection between the Priority Reforms can also make it much harder to hold any person or organisation accountable for progress on any particular reform element.

**Figure 1 – The Priority Reforms are closely interconnected**





## Existing accountability mechanisms lack bite

The Agreement includes a suite of accountability mechanisms. These are similar to the accountability mechanisms that are used in other national agreements, and include public reporting and regular reviews. There is also provision for the creation of an independent mechanism to support, monitor, and report on the transformation of mainstream agencies and institutions (box 1). Each of these mechanisms plays a role and is important for transparency and providing information to Aboriginal and Torres Strait Islander people and communities, and to the public more broadly.



### Box 1 – Closing the Gap accountability mechanisms

Section 9 of the Agreement is titled ‘Being publicly accountable for our actions’. It contains six accountability mechanisms.

1. A publicly accessible **dashboard**, prepared by the Commission, to provide up-to-date information on the framework’s **targets** and **indicators** by drawing from a single information repository that compiles data from existing data sources. The dashboard is complemented by an **annual data compilation report** that provides a point-in-time snapshot of the dashboard.
2. **Annual reports** published by each party to the agreement that provide information on their individual progress against the performance frameworks and their implementation plans.
3. An **independent review** of progress undertaken by the Commission every three years.
4. An **Aboriginal and Torres Strait Islander led review**, to be carried out within twelve months of each of the Commission’s reviews.
5. The **Joint Council** will provide a formal **response** to both reviews within six months of receiving them.
6. The **Joint Council** will provide the parties to the Agreement with an **annual update** at a meeting for discussion and advice on implementation issues.

In addition, clause 67 of the Agreement provides that governments agree to each identify, develop or strengthen an **independent mechanism**, or mechanisms, that will support, monitor, and report on the transformation of mainstream agencies and institutions. The mechanism, or mechanisms, will:

- support mainstream agencies and institutions to embed transformation elements in government agencies and institutions, and monitoring their progress
- be recognisable for Aboriginal and Torres Strait Islander people and be culturally safe
- engage with Aboriginal and Torres Strait Islander people to listen and to respond to concerns about mainstream institutions and agencies
- report publicly on the transformation of mainstream agencies and institutions, including progress, barriers and solutions.

This situates the independent mechanism as a component of Priority Reform 3, with no clear role in relation to the other Priority Reforms, the socioeconomic outcomes or the Agreement more broadly.

Despite the range of accountability mechanisms in the Agreement, the Commission’s assessment is that they are not sufficient to influence the type of change envisaged in the Agreement.

There are important deficiencies in current accountability mechanisms. They do not include all relevant government agencies, they do not provide clarity about how governments’ actions are (or should be) linked

to outcomes and there has been limited progress on putting in place an independent mechanism in most jurisdictions (information papers 4 and 6). In addition, current accountability mechanisms:

- are not sufficiently independent
- do not contain timely and appropriate consequences for failure
- are not informed by high-quality evaluation.

### **There is no independent oversight**

The Agreement provides that the Joint Council is responsible for ongoing administration and oversight of this Agreement (clause 139). But as the parties to the Agreement comprise the membership of Joint Council, this 'oversight' has little effect – the parties are simply reporting to themselves.

This is the antithesis of effective practice, in which oversight bodies that have a greater degree of independence operate with more objectivity and transparency, as the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) pointed out.

A strong and transparent accountability framework is fundamental to keep discretionary decision makers focussed on securing the best outcomes for Aboriginal people. AIATSIS submits that this will be better facilitated through a dedicated entity with statutory powers and independence from the government of the day. (Strelein and Hassing 2018, p. 1)

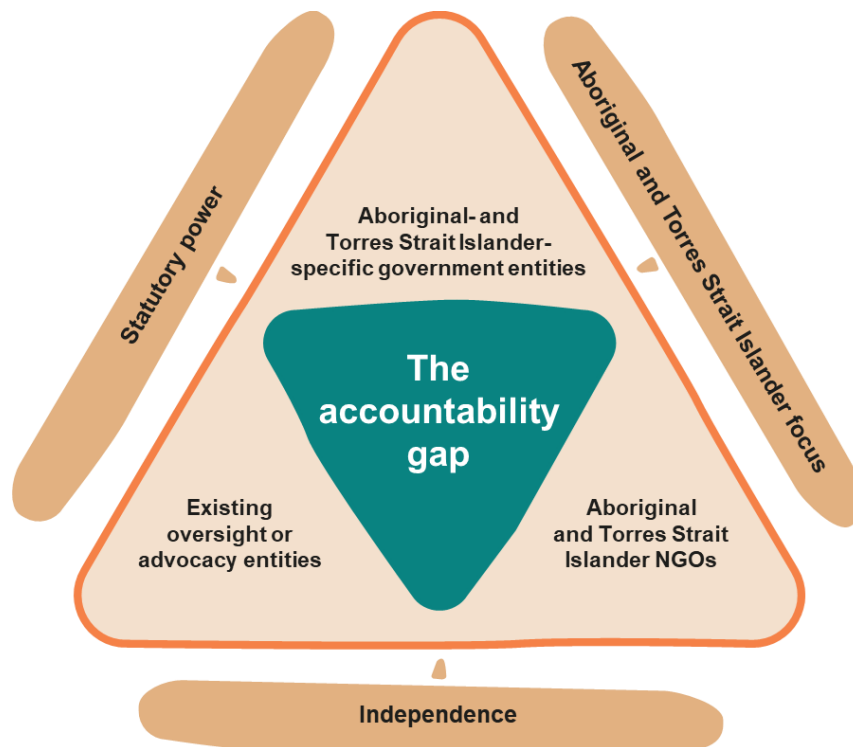
Independent oversight is essential to address the gap at the intersection of existing accountability mechanisms. The gap arises because some existing accountability mechanisms are independent of government, some have statutory power, some focus specifically on matters relating to Aboriginal and Torres Strait Islander people and communities, and some have dual features (such as Aboriginal and Torres Strait Islander NGOs, which focus on Aboriginal and Torres Strait Islander issues and are, as the names suggests, independent of government). But no existing accountability mechanisms have all three – independence and statutory power and an Aboriginal and Torres Strait Islander focus (figure 2).

Several jurisdictions have recognised a gap in oversight and accountability, and are working to develop accountability frameworks. For example, the Australian Government said:

By the end of 2023, the Commonwealth will develop a Monitoring and Accountability Framework ... in partnership with Aboriginal and Torres Strait Islander expertise and the Coalition of Peaks. This will measure and drive cultural, systemic and structural transformation across Commonwealth agencies. (2023a, p. 24)

The Western Australian Government said that it 'is in the preliminary stages of scoping a whole-of-government Aboriginal affairs accountability framework, which will draw on existing advisory and independent review mechanisms in the first phase' (2022, p. 24).

But these accountability frameworks are not yet public, will not apply in most jurisdictions, and the extent to which they will address the accountability gap is not yet clear.

**Figure 2 – An accountability gap**

Source: adapted from WADPC (2018, p. 6).

### **There are no consequences for failure**

As it currently stands, governments do not face timely or appropriate consequences for failure to meet the commitments they made in the Agreement. Decision-makers have not faced negative repercussions (timely or otherwise) for poor decisions, or for the continuation of similar practices that exacerbate, rather than remedy, disadvantage and discrimination.

Where governments have behaved in ways that were contrary to the Agreement – for example, by imposing a program or service in a community without meaningfully consulting that community, or by giving Aboriginal and Torres Strait Islander people and organisations too little time to meaningfully respond to a request for consultation – those people, organisations and communities have no way to hold governments to account. The Agreement does not provide any recourse, and does not stop the program being implemented or the decision being made without meaningful Aboriginal and Torres Strait Islander input.

The Commission has previously noted ‘government agencies must not only be ‘called’ to account; they must also be ‘held’ to account. Accountability is incomplete without effective consequences or sanctions’ (PC 2012, p. 239). The weakness (and effective absence) of accountability mechanisms means that the implementation of the Agreement depends heavily (or solely) on individuals being motivated to ‘do the right thing’. While many individuals are motivated, this does not provide the necessary impetus for comprehensive and sustained system change.

## **There is too little high-quality evaluation**

Evaluation is an essential component of holding governments accountable for outcomes, and identifying opportunities to improve outcomes, to support learning and adaptation or to use funds more effectively. Publishing evaluations can further enhance accountability by increasing visibility and pressure for agencies to follow up with a management response to evaluation findings. Publishing evaluations also has many other benefits, including supporting learning, improvement and the diffusion of knowledge. But there is a lack of published evaluation of policies and programs affecting Aboriginal and Torres Strait Islander people (PC 2020, p. 99).

The problem is not a total absence of evaluation, but rather an absence of evaluation that puts outcomes for Aboriginal and Torres Strait Islander people at the centre.

... the problem is not simply one of 'not enough evaluation'. It appears that there is a significant amount of time, energy and money ... spent on monitoring and evaluation in Indigenous affairs ... A big part of the problem is that current evaluation efforts focus on the wrong things. Most effort appears to be on either ensuring accountability for expenditures (compliance) or demonstrating value for money, rather than on finding ways to improve outcomes. (QPC 2017, p. 227)

In 2020, the Commission published an Indigenous Evaluation Strategy that is designed to address these concerns.

The Strategy puts Aboriginal and Torres Strait Islander people at its centre. To achieve better outcomes, what Aboriginal and Torres Strait Islander people value, their knowledges, and lived experiences needs to be reflected in what is evaluated, how evaluation is undertaken and the outcomes of policies and programs ... If the outcomes of policies are not what is valued by Aboriginal and Torres Strait Islander people, then those policies will likely have limited value and little prospect of success. (PC 2020, pp. 2, 4)

The Indigenous Evaluation Strategy is now recommended for use by Australian Government agencies and available online (Department of Finance 2023b). There have also been a number of evaluations published since 2020 that put Aboriginal and Torres Strait Islander people at the centre. These span a range of settings, from health services in Western Australia (Wright et al. 2021) to local decision-making in New South Wales (Howard-Wagner and Markham 2022). But more evaluations that put Aboriginal and Torres Strait Islander people at the centre are still needed in every policy domain.

## **Stronger and smarter accountability mechanisms are needed**

The deficiencies in current accountability mechanisms raise questions as to the status and influence of the Agreement and its ability to drive change. It is (or should be) clear that governments are accountable to the community, and for the Agreement, they are first and foremost accountable to the Aboriginal and Torres Strait Islander community. But changes are required to ensure that governments honour their commitments, and thereby help improve the life outcomes of Aboriginal and Torres Strait Islander people.

The following sections each outline potential reform directions. While none of the proposed reform directions can, on its own, shift the trajectory of progress, together they can influence the incentives of those working at all levels of government, and drive the necessary changes in governments' actions to implement the Agreement.

### 3 Aboriginal and Torres Strait Islander bodies are playing a growing role in holding governments to account

#### New and emerging bodies will play a role in accountability

In addition to the Agreement, there are many Aboriginal and Torres Strait Islander bodies, processes and decision-making structures in place, proposed or under development that may affect the way in which governments are held to account for actions affecting Aboriginal and Torres Strait Islander people. In particular, there is potential for the proposed Voice to the Australian Parliament (as well as state and territory representative bodies and Voices to State Parliaments), treaty processes, and justice commissions to strengthen accountability for matters covered by the Agreement. But regardless of the outcomes of these processes, governments will still be responsible for adopting a fundamentally new way of developing and implementing policies and programs that affect Aboriginal and Torres Strait Islander people, as they have committed to do in the Agreement.

#### Voice

In South Australia, legislation to provide for a First Nations Voice to Parliament was enacted in March 2023. The South Australian First Nations Voice will have several legislated functions it can use to hold the South Australian Government to account (box 2).



#### Box 2 – How the South Australian First Nations Voice will be able to hold the South Australian Government to account

The *First Nations Voice Act 2023* (SA) passed the South Australian Parliament on 26 March 2023, and the First Nations Voice will commence operation on 1 January 2024.

Once operational, the First Nations Voice ‘will be a connected, direct and independent line of communication for First Nations people to South Australia’s Parliament and the government’ (SA Attorney-General’s Department 2023). It will include six Local First Nations Voices and a State First Nations Voice.

The State First Nations Voice (represented by its joint presiding members) will have several legislated functions that will strengthen accountability for Aboriginal and Torres Strait Islander people in South Australia.

- It will be notified of the introduction of every bill in both houses of parliament, and will be able to address either house of parliament, but not both, in relation to any bill.
- Each year, it must deliver an annual report and address to a joint sitting of parliament.
- It may present a report to parliament on any matters of interest to First Nations people. To ensure that the issues raised in these reports are appropriately considered, the relevant Minister is required to provide a response to the report within six months, including whether any action has been taken or is proposed to be taken.
- It will meet at least twice per year with Cabinet.
- It will meet at least twice per year with chief executives of public sector organisations to be briefed by, and ask questions of, the chief executives present in relation to matters of interest it identifies.



### **Box 2 – How the South Australian First Nations Voice will be able to hold the South Australian Government to account**

- It will attend engagement hearings to ask questions of ministers and chief executives relating to the operations, expenditure, budget and priorities of public sector organisations.

The exact manner in which many of these functions will operate remains to be determined, and will be set by agreement between the joint presiding members of the State First Nations Voice and the Premier. But the desire for the First Nations Voice to enhance accountability to Aboriginal and Torres Strait Islander people was clearly articulated by the Premier.

The ability to directly address the South Australian Parliament and to engage with cabinet ministers and chief executives will give First Nations people the opportunity to influence decision-making at the highest levels and have their voices heard where it counts.  
(Malinauskas 2023)

In several other jurisdictions, Aboriginal and Torres Strait Islander representative bodies are also playing a role in enhancing accountability.

- In the ACT, the *Aboriginal and Torres Strait Islander Elected Body Act 2008* gives the Aboriginal and Torres Strait Islander Elected Body (ATSIEB) the power to request information from the ACT Government and compel executive officers of ACT Government agencies to appear at hearings. It also requires that the ACT Government respond to reports on the ATSIEB's public hearings within four months of receiving those reports.
- In Victoria, the First People's Assembly of Victoria speak out about issues affecting Aboriginal and Torres Strait Islander people. For example, it called on the Victorian Government to urgently raise the age of criminal responsibility to at least 14 years (First Peoples' Assembly of Victoria 2022).

In the Northern Territory, a parliamentary inquiry into a process to review bills for their impact on First Nations Territorians is underway. The inquiry will report in May 2024 (Legislative Assembly of the Northern Territory 2023), with the report expected to examine the potential for an Aboriginal and Torres Strait Islander Voice to the NT Parliament.

At a national level, a referendum on an Indigenous Voice to Parliament will be held before the end of 2023. The proposed Voice would be a permanent body to make representations to the Australian Parliament and the Executive Government on legislation and policy of significance to Aboriginal and Torres Strait Islander peoples. The Voice would:

- make representations to the Parliament and the Executive Government on matters relating to Aboriginal and Torres Strait Islander peoples
- be able to make representations proactively
- be able to respond to requests for representations from the Parliament and the Executive Government
- have its own resources to allow it to research, develop and make representations
- provide advice in writing to the Parliament and the Executive Government early in the development of proposed laws and policies (Australian Government 2023b).

In undertaking these functions, a Voice would contribute to accountability and, in time, become a key player in governance and oversight of matters affecting Aboriginal and Torres Strait Islander people. A national

Voice could also affect accountability arrangements at the state and territory level. For example, the Western Australian Government noted that:

The Voice is likely to have a practical impact on the design and establishment of governance and accountability settings for WA at the State, regional and local level over the next three years. (2022, p. 24)

## Treaty

States and territories are at various stages of negotiating Treaties with Aboriginal and Torres Strait Islander people. Victoria, Queensland, the ACT and the Northern Territory have commenced processes to facilitate Treaty negotiations.

The Treaty negotiating framework that has been agreed to in Victoria points to the ways in which a future Treaty may enhance accountability for the matters it covers. The Victorian Treaty Negotiation Framework provides that a Treaty should include a culturally appropriate process for the resolution of disputes, and envisages the creation of institutions and arrangements, such as a tribunal, that parties could use to enforce Treaty commitments. And Treaty commitments may cover a very wide range of subjects across all domains of the Victorian Government's operations (First Peoples' Assembly of Victoria and the State of Victoria 2022). There is therefore potential that, once a Treaty or Treaties are agreed, they will provide strong new avenues for enforcing governments' accountability to Aboriginal and Torres Strait Islander people in Victoria.

## Truth

Victoria established a formal truth-telling process into historical and ongoing injustices experienced by Aboriginal and Torres Strait Islander people in 2022. The Yoorrook Justice Commission is looking into past and ongoing injustices experienced by Traditional Owners and First Peoples in Victoria in all areas of life since colonisation (Yoorrook Justice Commission 2023).

Yoorrook has a clear role in delivering accountability – one of its objectives is to:

Identify Systemic Injustice which currently impedes First Peoples achieving self-determination and equality and make recommendations to address them, improve State accountability and prevent continuation or recurrence of Systemic Injustice. (Letters Patent establishing the Yoorrook Justice Commission, clause 2)

Yoorrook has a three-year term, and will deliver its final report and conclude in June 2025 (Yoorrook Justice Commission 2023). Similarly, the Truth-telling and Healing Inquiry that will be established in Queensland under the *Path to Treaty Act 2023* (Qld) will operate for a period of three years, and will inquire into the historical and ongoing impacts of colonisation on Aboriginal and Torres Strait Islander Queenslanders.

Given their multi-year time frames, broad remits and potentially large workloads, it is unlikely that truth-telling inquiries will play a large or direct role in enhancing accountability for Closing the Gap commitments. But the issues that these inquiries raise and the recommendations they make will provide guidance on how to enhance governance and accountability arrangements going forward.

## An expanded role for the independent mechanism?

### Better recognising the interdependency of the Priority Reforms

A key mechanism for accountability within the Agreement is the independent mechanism (box 1). However, as discussed in information paper 4, there has been limited progress on putting in place an independent

mechanism that will support, monitor and report on the transformation of government organisations in most jurisdictions. While a lack of progress in implementing any aspect of the Agreement is far from ideal, the absence of significant action in establishing the independent mechanism does provide an opportunity to reconsider its role.

The first way in which the role of the independent mechanism could be reconsidered is to expand its role beyond Priority Reform 3, so that it can drive accountability for progress towards all of the Priority Reforms. Participants emphasised the importance of considering all of the elements of the Agreement as a whole. For example, the Federation of Victorian Traditional Owner Corporations said:

This review is an opportunity for the Commission to recognise the interconnectedness between the targets and outcomes in the National Agreement and to evaluate them in a holistic way.  
(sub. 24, p. 3)

And, as noted above, there are important connections between the Priority Reforms – each Priority Reform supports, and is supported by, the other Priority Reforms, with the ultimate aim of accelerating improvements in the lives of Aboriginal and Torres Strait Islander people. If it were to consider Priority Reform 3 in isolation from the other Priority Reforms, the independent mechanism may struggle to take due account of the connections and dependencies between them, or the ultimate contribution of the Priority Reforms to the socio-economic outcomes envisaged in the Agreement. An independent mechanism with a broader role – one that goes beyond Priority Reform 3 – would be better placed to drive accountability for progress towards all of the outcomes of the Agreement.

### **The independent mechanism needs to shine a spotlight**

If the independent mechanism were to take a broader role, its primary purpose would be to hold governments to account for commitments made and the services they fund, and provide system-level advice for improved policies, programs and services affecting Aboriginal and Torres Strait Islander people. This would help to ensure that governments understand and respond to the views, aspirations and interests of Aboriginal and Torres Strait Islander people and enable their self-determination.

If the independent mechanism were clearly positioned at the centre of the accountability gap described in section 2, it could play a key role in strengthening accountability.

We believe the system would be significantly improved by the presence of an influential and independent entity with the resources to pay close attention to what government is doing and the power to shine a spotlight on policies or practices that fail to contribute to better outcomes for Aboriginal people. (WA DPC 2018, p. 9)

The independent mechanism is likely to take different forms and names in different jurisdictions, to better fit with existing institutions in each jurisdiction. But regardless of its exact form or name, the independent mechanism should be able to shine a spotlight on good and bad practices under the Agreement and advocate for improved policies, programs and services affecting Aboriginal and Torres Strait Islander people.

### **Potential features of the independent mechanism or new accountability bodies**

As suggested by its name, **independence** is an essential feature of the independent mechanism. A range of other features would support the effectiveness of the independent mechanism, including that it:

- be **governed and led by Aboriginal and Torres Strait Islander people**, chosen with input from Aboriginal and Torres Strait Islander people and communities



- have a **legislative basis** to guarantee its ongoing existence and the power behind its functions, and to enable it to hold governments to account
- have **sufficient guaranteed funding** so that it can build and maintain organisational capabilities, and determine its priorities without undue influence from governments
- have a **broad remit** covering all aspects of governments' relationships with Aboriginal and Torres Strait Islander people (subject to the role and remit of all of the Aboriginal and Torres Strait Islander bodies described in section 3, and of any new bodies that are created)
- have **full control of its work program**, so it can initiate its own inquiries, conduct its own research, benchmark performance, and review all relevant documents (such as Closing the Gap implementation plans and annual reports)
- be able to **compel government agencies to provide information**
- can **intervene in real time** to support Aboriginal and Torres Strait Islander people who have complaints about government agencies
- **operate with transparency**, including freedom to publish reports and findings
- **not engage in program delivery** and **not administer funding or programs**, so that it is never in a position of needing to pass judgement on its own actions or inaction.

Participants emphasised the importance of each of these features. For example, the Aboriginal Family Legal Service WA said that:

Independent mechanisms to support, monitor and report on the transformation of mainstream agencies and institutions must be Aboriginal-led and must report directly to their respective State Parliaments. This should include ... an Office of Accountability in Aboriginal Affairs in every state and territory. An Office of Accountability, for example, should be a separate statutory body designed to strengthen government accountability to Aboriginal people in Western Australia and advocate for Aboriginal people's interests in government policy and performance. The Office should provide an Aboriginal-led, independent and transparent oversight and review mechanism with the capacity and resources to track the performance of government at every point where government intersects with the lives of Aboriginal people, including but not limited to government action to enable Aboriginal self-determination. The non-Indigenous population has access to a range of advocacy bodies for adults as well as children and it seems reasonable to provide the equivalent for the Aboriginal population. (sub. 7, p. 8)

In designing the details of each of these features, it will be important to consider the interaction between them. For example, a broad remit will only be sustainable if it is accompanied by sufficient funding. And the potential role of the independent mechanism in supporting the development of the Aboriginal community-controlled sector requires careful consideration, as a mandate to support a sector or organisation does not sit easily with a mandate to hold that sector or organisation to account.

Some of the potential functions of the independent mechanism overlap with those undertaken by Te Arawhiti (the Office for Māori–Crown Relations) (box 4), which provides an opportunity to learn from the New Zealand experience.



#### Box 4 – Te Arawhiti

Te Arawhiti (the Office for Māori–Crown Relations) is a NZ Government agency that, since its establishment in January 2019, has worked to foster strong, ongoing and effective relationships with Māori across the New Zealand Government (Te Arawhiti 2023e). Its functions span four key areas.

- Te Kāhui Whakatau negotiates the settlement of historical Treaty of Waitangi claims. This includes advising and helping claimant groups prepare for negotiations. Te Kāhui Whakatau reports to the Minister for Treaty of Waitangi Negotiations (Te Arawhiti 2023d).
- Te Kāhui Takutai Moana supports the recognition of customary interests in common marine and coastal areas (Te Arawhiti 2023b).
- Te Kāhui Whakamana (settlement commitments) supports the Crown to deliver on its Treaty settlement commitments (Te Arawhiti 2023c).
- Te Kāhui Hīkina (Māori–Crown Relations) supports the Minister for Māori–Crown Relations to deliver on the responsibilities of the Māori–Crown Relations portfolio (Te Arawhiti 2023a).

It is these latter two functions that have the most parallels to the potential function of the independent mechanism(s) in Australia. The responsibilities of the Te Kāhui Hīkina portfolio are to:

- ensure the Crown meets its Treaty settlement commitments
- develop engagement, co-design and partnering principles that ensure agencies generate optimal solutions across social, environmental, cultural and economic development
- ensure the engagement of public sector agencies with Māori is meaningful
- provide strategic leadership and advice on contemporary Treaty issues
- broker solutions to challenging relationship issues with Māori
- coordinate significant Māori–Crown events on behalf of the Crown
- provide strategic advice to the NZ Prime Minister and the Cabinet on the risks and opportunities in Māori–Crown partnerships (Te Arawhiti 2023a).

As part of ensuring the engagement of public sector agencies with Māori is meaningful, Te Kāhui Hīkina has developed an engagement framework and engagement guidelines, and works directly with agencies that are planning engagement with Māori (Te Arawhiti 2022a).

Te Arawhiti also leads the system for public sector Māori–Crown capability by focusing on increased understanding of Māori–Crown engagement and Whāinga Amorangi (transforming leadership). In 2021-22, this included reviewing proposed plans from the 36 core government agencies that were required to develop a plan to ‘build their internal capability to improve Māori Crown relations’. In some cases, Te Arawhiti required those agencies to do remedial work on their plans before it endorsed them (Te Arawhiti 2022b, p. 16).

Te Kāhui Whakamana supports the Crown to deliver on its Treaty settlement commitments. It helps the Crown gain an overview of its Treaty settlement commitments, assists coordination across agencies responsible for implementing commitments and acts as an initial contact point for enquiries on post-settlement matters. It also works with iwi (Māori nations) and government agencies to resolve issues after settlement. In addition, Te Kāhui Whakamana supports the Crown to act fairly as a Treaty partner (a key function of the Te Arawhiti portfolio) by looking for opportunities for partnership between the Crown and settled groups, and ensuring agencies and local government are aware of their Treaty settlement commitments (Te Arawhiti 2023c).

Recognising the need for further guidance to inform the development of the independent mechanism, work has been commissioned through the Joint Council to provide that guidance. It is expected to be delivered to the Partnership Working Group by August 2023. The Commission is also seeking further information on the potential future role and functions of the independent mechanism.



### 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, Voices to State Parliaments, Treaty processes, and justice commissions) will 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?

## 4 Assigning clearer responsibilities and accountabilities for driving action within the public sector

The new and emerging Aboriginal and Torres Strait Islander bodies described in section 3, together with the independent mechanism once established, will help to ensure that governments are held accountable for progress towards the outcomes of the Agreement. But it is not reasonable or appropriate to put the burden for driving change within government on newly created bodies that sit outside of government – governments need to hold themselves accountable for making changes from within.

This will necessitate the creation of better governance systems, so that accountability at the level of a jurisdiction's government affects the day-to-day actions of public sector CEOs, executives and employees in that jurisdiction. The need for improved governance and accountability was highlighted by inquiry participants, who told us that better mechanisms are needed to ensure that senior department executives understand and engage with the Closing the Gap initiatives (PC 2023b, p. 4), and that this understanding and engagement cascades down to middle managers and staff.

In considering how to implement systems that hold governments accountable for changing their operations, it is worthwhile to consider what lessons can be learned from other large-scale government transformation

initiatives, such as the transformation of the NSW Public Service (information paper 4) and the implementation of the National Competition Policy (box 5).



### **Box 5 – Lessons from the implementation of the National Competition Policy**

The National Competition Policy (NCP) was implemented in the 1990s and early 2000s. It was based on the principle that competitive markets better serve the interests of consumers and the wider community. The focus of the NCP reforms was on exposing some previously sheltered industries to competition and applying a more national approach to competition issues. To achieve this, the NCP involved changes to competition laws, as well as numerous reforms set out in three intergovernmental agreements.

Key features of the institutional framework for the NCP included:

- financial incentives – called ‘competition payments’ – made by the Australian Government to the state and territory governments to return the fiscal dividend from their implementation of agreed reform commitments
- the creation of the National Competition Council (NCC), which was tasked with assessing governments’ progress with implementing their reform commitments. The NCC’s reports were published when the Australian Treasurer made a decision to release the competition payments to state and territory governments for each tranche of progress.

These arrangements led to significant progress in reducing anti-competitive regulations (Harper et al. 2015, p. 8). But they did not lead to reform in all of the areas covered by the NCP, and a range of anti-competitive regulations remained in place. For example, the extent of reform of alcohol regulations varied by state, and the NCC withheld payments from several jurisdictions due to lack of progress (Harper et al. 2015, p. 146).

In 2015, the Competition Policy Review found that:

Several lessons may be drawn from Australia’s experience of implementing the [NCP]:

- All jurisdictions need to commit to the policy and its implementation.
- Oversight of progress should be independent and transparent to ‘hold governments to account’.
- The benefits of reform need to be argued and, where possible, measured (Harper et al. 2015, p. 75).

The Competition Policy Review also cautioned that while the competition payments assisted governments in delivering their reform agendas, the payments distorted the public message around the need for reform, creating a focus on withholding payments rather than the benefits that would flow from reform. It also meant that progress with competition policy reform waned when the competition payments ceased (Harper et al. 2015, p. 445).

Sources: Harper et al (2015); NCC (nd).

Lessons to emerge from these transformations include the importance of committed leadership, the need to articulate the benefits of change (and to clearly communicate those benefits so that they are understood by everyone involved) and the key role that independent oversight can play in driving change. Funding and investing in change is also essential, though funding on its own is unlikely to be a sufficient motivator for change.

Drawing on these lessons, the Commission is considering four potential avenues for enhancing accountabilities for driving action within the public sector. They are:

- designating a senior leader or leadership group to drive jurisdiction-wide change
- embedding responsibility for improving the public sector's relationship with Aboriginal and Torres Strait Islander people into the core employment requirements of all public sector CEOs, executives and employees
- ensuring that central agencies lead changes to Cabinet, Budget, funding and contracting processes
- establishing or enhancing sector-specific accountability mechanisms in key sectors.

In information paper 3, the Commission also considers the possibility of 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. Such obligations would provide another mechanism by which Aboriginal and Torres Strait Islander people could hold governments accountable.

These new approaches to enhancing accountability within the public sector are designed to work alongside, and to complement, the Agreement and its Priority Reforms. All of the recommended changes will only be effective if they are implemented in ways that are consistent with the Agreement, and centre Aboriginal and Torres Strait Islander people and perspectives. So, for example, the new responsibilities for public sector CEOs, executives and employees should be developed in partnership with Aboriginal and Torres Strait Islander people, and should cover all of the transformation elements in Priority Reform 3. Similarly, appointing Aboriginal and Torres Strait Islander people to the senior leadership position(s) that are tasked with driving jurisdiction-wide change would strengthen those leadership position(s).

## Designating a senior leader or leadership group to drive change throughout the public sector in each jurisdiction

Effective leadership is critical for driving the transformational change envisaged by the Agreement. But as it stands, no senior leader or leadership group is tasked with driving jurisdiction-wide change by promoting and embedding the required changes throughout the public sector in each jurisdiction.

As well as leadership from above, more needs to be done to ensure that everyone who is employed in the public sector understands and implements the Agreement.

Although fundamental change must be driven from the top, it is important that it is not just top down. While they need a strong authorising environment, all public servants have a role to play in ensuring they have or acquire the knowledge and skills to play their part. (Hoffman 2022, p. 12)

This is why stronger leadership needs to be accompanied by embedding responsibility for improving cultural capability and relationships with Aboriginal and Torres Strait Islander people into public sector employment requirements (discussed below). But there is also a need to address the leadership gap, in which critical elements of successful change are absent or in short supply. These elements include:

- **Continuous, consistent communication.** In order for change to succeed in any organisation, employees must understand what change is expected and why. Creating this shared understanding requires 'clear, persuasive and consistent communication from leaders and involvement from staff. Communication must be more or less continuous, not one-off' (Thodey et al. 2019, p. 82). But communication about the changes

needed to implement the Priority Reforms does not appear to have reached (let alone continuously and consistently reached) all of the 2.4 million public sector workers across federal, state, territory and local government organisations whose ways of working may need to change (information paper 4). We heard that awareness of the Agreement is variable across the public sector and is often concentrated towards the top of the organisational hierarchy, but that further down the hierarchy (at the service delivery level and in regional offices) awareness is often inconsistent or non-existent (PC 2023b, p. 11).

- **Role modelling and reinforcement.** Role-modelling is one of the most powerful ways in which leaders can drive change, as employees internalise patterns of behaviour to which they are commonly exposed (Gladman, Ryder and Walters 2015, p. 2). Witnessing influential leaders acting consistently with expected new behaviours helps people feel confident to take the risk associated with changing. An analysis of more than 80 government transformations in 18 countries found that:

Leaders of successful transformations were twice as likely as their peers in unsuccessful initiatives to role-model the behavior they expected of public servants. Such role models of transformation make major personal commitments, are ready to spend their political capital, and often put the outcomes of the change effort ahead of their own interests. (Allas et al. 2018, p. 49)

Role models with lived experience – in this case, Aboriginal and Torres Strait Islander people – are best placed to support behaviour change.

- **Building skills and providing tools.** Employees must be equipped with the skills, capabilities and tools to act in new ways. Failing to do so necessarily undermines their ability to change, while building up the ability and confidence of individuals to act in new ways creates positive reinforcement. But as explained in information paper 4, there is a paucity of evidence about the effectiveness of cultural capability training across the public sector. Without clarity about whose job it is to obtain this evidence, public sector organisations will continue to be ‘flying blind’.
- **Rewarding desired behaviours.** Incentives and reward mechanisms (such as learning and development, performance assessment at all levels, promotions and appointments) must align with the expected behaviours and reinforce desired change. This is why the Commission is recommending embedding responsibility for improving and demonstrating cultural capability and building relationships with Aboriginal and Torres Strait Islander people into the employment requirements of public sector CEOs, executives and employees (draft recommendation 3, below).

## Which senior leader or leadership group would be best placed to drive jurisdiction-wide change?

While the leadership gap is clear, the best option for filling the gap is not as easy to identify. There are several potential options, each with different strengths.

### Secretaries of the Department of the Prime Minister, Premier or Chief Minister?

The Secretaries of the Departments of the Prime Minister, Premier or Chief Minister play a key role in public sector leadership. In some jurisdictions, the Secretary is explicitly designated as the head of the public service. For example, in Tasmania, the Secretary of the Department of Premier and Cabinet is the Head of the State Service (TDPC nd). In some other jurisdictions, the Secretary does not have a formally designated role as head of the public service, but nonetheless provides sector-wide leadership. For instance, in the Australian Public Service (APS):

The [Prime Minister and Cabinet] Secretary is Chair of Secretaries Board, attends Cabinet meetings and is principal adviser to the Prime Minister. As a matter of practice, and consistent with these responsibilities, the [Prime Minister and Cabinet] Secretary serves as the most senior leader of the APS. However, the role is not formally recognised as such. Nor are the responsibilities of the role outlined comprehensively in legislation. (Thodey et al. 2019, p. 285)

This senior leadership position – whether legislated or not – places the Secretaries of the Departments of the Prime Minister, Premier or Chief Minister in an ideal position to drive the systemic, jurisdiction-wide changes that are needed to deliver on the Agreement.

However, it is unclear whether Secretaries have the deep knowledge of Aboriginal and Torres Strait Islander perspectives that is needed to effectively drive the required changes. While Secretaries can reasonably be expected to have an understanding of Aboriginal and Torres Strait Islander culture and communities, they do not have the depth of experience and understanding that Aboriginal and Torres Strait Islander people could bring to the role (box 7).



### **Box 7 – The importance of lived experience in leadership**

In Australia and internationally, lived experience is increasingly being recognised as key to informing the design, delivery and evaluation of government policies and programs, and the operations of government organisations.

A lived experience recognises the effects of ongoing negative historical impacts and or specific events on the social and emotional wellbeing of Aboriginal and Torres Strait Islander peoples. It encompasses the cultural, spiritual, physical, emotional and mental wellbeing of the individual, family or community. (Black Dog Institute 2020)

Having leaders with lived experience in permanent positions ensures that these perspectives become an ongoing and formalised part of the policy and decision-making rather than a one-off consultation.

When people with lived experiences of racism are missing from the organisation, especially in leadership, racial diversity is not prioritised. This means racial tokenism can often be confused for racial diversity. ... Racial tokenism locks in racism by:

- perpetuating stereotypes and unconscious bias
- putting an enormous burden of representation on that person or people
- enabling anti-racism actions to be easily avoided by just not inviting the person with lived experiences to relevant meetings. (DCA 2022, p. 45)

Often there needs to be a critical mass of people with lived experiences, especially in leadership teams, before an organisation understands that their policies and practices may not be so race-neutral after all (DCA 2022, p. 48). In building that critical mass, it is important to recognise the potential challenges and vulnerabilities involved for lived experience leaders, such as the risk of tokenism, the emotional toll it can take (especially when working in isolation) and the need for effective support and training.

## Secretaries boards and similar leadership groups?

Many jurisdictions have forums in which the leaders of government departments and/or agencies come together to lead initiatives across the public service or public sector. For example, ‘the Victorian Secretaries’ Board promotes leadership and coordinates initiatives across the public sector’ (VPSC 2023). In the APS, the functions of the Secretaries Board are set out in section 64 of the *Public Service Act 1999* (Cth). They are to:

- take responsibility for the stewardship of the APS and for developing and implementing strategies to improve the APS
- identify strategic priorities for the APS and consider issues that affect the APS
- set an annual work program, and direct subcommittees to develop strategies to address APS-wide issues and make recommendations to the Secretaries Board
- draw together advice from senior leaders in government, business and the community
- work collaboratively and model leadership behaviours.

As part of this leadership role, secretaries boards and similar groups already play a role ensuring that matters affecting Aboriginal and Torres Strait Islander people are considered by all government agencies and employees. For example, the CEO of the National Indigenous Australians Agency attends meetings of the APS Secretaries Board ‘to report on First Nations reforms and any related agenda items’ (DPMC 2023b). In Western Australia, the Public Sector Leadership Council published a ‘narrative to drive a future enabled public sector in Western Australia’ that included ‘empowering First Nations people with a secure future’ as one of six strategic priorities for the future of the WA public sector (WA Public Sector Leadership Council 2023, pp. 1, 6).

Despite their role in sector leadership, secretaries boards and similar groups typically play a coordination (rather than a decision-making) role. While the individual members of the board have clear responsibilities as individuals, and the backing of a department to help them fulfill those responsibilities, they do not have the same responsibilities or resources as a group. For example, the Victorian Secretaries’ Board does not have legal status (VPSC 2023). So while secretaries boards and similar groups have influence and can lead by example, they may not be in a position to provide the kind of oversight and accountability that is necessary to drive change. For example in the APS:

In not requiring the Secretaries Board to publish an annual account of its stewardship of the public service, the [*Public Service Act 1999* (Cth)] also makes it clear that the board’s role is to support the secretaries rather than provide the sort of systemic strategic leadership and oversight expected from a board in the private sector. Clearly it is a ‘board’ in name only, being nothing more than an executive management committee and without providing the direction expected of an executive management committee in the private sector. (Ferguson 2019, p. 186)

Without a mandate for decision-making or oversight, it will be challenging for secretaries’ boards and similar leadership groups to drive the systemic, jurisdiction-wide changes that are needed to deliver on the Agreement. And of course, not all jurisdictions currently have secretaries’ boards and similar leadership groups. Even if such a group was to be created, it may take considerable time before a newly formed group is in a position to drive the systemic, jurisdiction-wide changes that are needed to deliver on the Agreement.

But these challenges could be overcome with an appropriate combination of legislative change, resourcing and commitment. And, as noted above, each of the potential leadership options have different strengths and will require different changes to support them – there is no perfect ‘off-the-shelf’ solution ready to deliver the innovative leadership required.



## Departments or agencies with responsibility for Aboriginal and Torres Strait Islander policy?

In each jurisdiction, there is an agency, a government department or an office within a department, that has responsibility for Aboriginal and Torres Strait Islander policy.

In most jurisdictions, this function sits within the Department of the Premier or Chief Minister. For example, in the Northern Territory, the Office of Aboriginal Affairs sits within the Department of Chief Minister and Cabinet, and is 'responsible for providing support, engagement and advice to Aboriginal people and government on significant Aboriginal Affairs priorities' (NT Government 2021). Similarly:

- Aboriginal Affairs NSW sits within the NSW Department of Premier and Cabinet (NSW DPC 2023)
- responsibility for First Nations–State Relations sits within the Victorian Department of Premier and Cabinet (VDPC 2021)
- in Western Australia, the Aboriginal Engagement Directorate sits within the WA Department of the Premier and Cabinet (WA DPC 2023)
- in Tasmania, the Office of Aboriginal Affairs sits within the Community Partnerships and Priorities Division of the Tasmanian Department of Premier and Cabinet (TDPAC 2023).

In other jurisdictions, responsibility for Aboriginal and Torres Strait Islander policy sits outside the Premier's or Chief Minister's department.

- The Attorney-General's Department is the South Australian Government's lead agency on Aboriginal affairs (SA AGD 2022a).
- In Queensland, the lead agency is the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts (QPSC 2023).
- In the ACT, the Office for Aboriginal and Torres Strait Islander Affairs sits within the Community Service Directorate (ACT Government 2023).

At the Australian Government level, the National Indigenous Australians Agency (NIAA) was created in July 2019, when the Indigenous Affairs Group that was previously part of the Department of the Prime Minister and Cabinet was established as its own agency within the Prime Minister and Cabinet portfolio (NIAA 2022).

These departments and agencies are well placed to have the expertise to design changes that improve governments' ability to work effectively with Aboriginal and Torres Strait Islander people. But, for the most part, as relatively small divisions or offices within larger agencies, they may not have the necessary resources, capacity or influence to reach outside their own agencies and motivate other, often much larger, agencies to make the significant changes that were committed to in the Agreement.

## Public service or public sector commissioners?

Another potential leader who could drive changes across all government agencies is the public service or public sector commissioner. In the APS, the Public Service Commissioner has considerable influence.

In structural terms the APS commissioner is the second-most important person in the operations of the public service being appointed by and reporting to the prime minister, head of a statutory authority (the APSC), advising the prime minister on the appointment (and termination) of the secretary of [the Department of the Prime Minister and Cabinet] ... being a member of the Secretaries Board, and providing the prime minister with advice about the performance of his departmental head. (Ferguson 2019, p. 185)

In other jurisdictions, public service or public sector commissioners are already active in efforts to increase the cultural capability of the public service. For example, the NSW Public Service Commission provides freely

accessible resources designed to build cultural awareness of Aboriginal peoples past interactions with government, the diversity of Aboriginal people and culture, and significant Aboriginal events and celebrations (NSW Public Service Commission 2021). In Queensland, the new *Public Sector Act 2022* gives the Public Sector Commissioner a strengthened role as a systems leader, steward and enabler, and an increased scope of work that reaches across a larger number of public sector entities. There is also a new duty for public sector employees to actively promote the perspectives of Aboriginal and Torres Strait Islander peoples (see below). And in New Zealand, the NZ Public Service Commissioner was given new responsibilities under the *Public Service Act 2020* (NZ) to support the implementation of the Māori–Crown provisions of the Act (box 8).

These examples point to a potential role for the public service or public sector commissioners in identifying and eliminating institutional racism, and improving the cultural capability and relationships with Aboriginal and Torres Strait Islander people throughout the public sector.



### **Box 8 – The NZ Public Service Commissioner’s role in improving Māori–Crown relations in New Zealand**

Under the *Public Service Act 2020* (NZ), the role of the New Zealand public service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi (section 14(1)). The Act gives the New Zealand Public Service Commissioner responsibility for developing and maintaining the capability of the public service to engage with Māori and to understand Māori perspectives (section 14(2)) (this responsibility is shared with public service chief executives and executive boards).

The Commissioner is also responsible for developing and implementing a strategy for the development of senior leadership and management capability in the public service (section 61), and, in doing so, must recognise the aims and aspirations of Māori, the employment requirements of Māori, and the need for greater involvement of Māori in the public service (section 73(3)(d)).

To give effect to these requirements, the NZ Public Service Commission (Te Kawa Mataaho) is working with Te Arawhiti (the Office for Māori–Crown Relations) and Te Puni Kōkiri (the Ministry for Māori Development) to lead a whole-of-system approach to supporting leaders and agencies to fulfil their responsibilities. Initiatives have included:

- appointment of a statutory Deputy Public Service Commissioner whose core focus is on system leadership for Māori–Crown relations
- appointment of Te Hāpai Ō (the Māori Advisory Committee) to assist with the implementation of the Public Service Act, particularly regarding the Crown’s obligations to and relationships with Māori
- leading development opportunities for public service leaders with a focus on building Māori–Crown capability, and the Rangatahi Māori Emerging Leaders Programme
- active encouragement of all agencies and leaders to fulfil their responsibilities under Maihi Karauna (the Crown’s Strategy for Māori Language Revitalisation 2019–2023), in partnership with Te Taura Whiri i te Reo Māori (the Māori Language Commission). This includes system implementation of Whāinga Amorangi: Transforming Leadership, led by Te Arawhiti
- inclusion of a specific category for Māori–Crown relationships in Te Hāpai Hāpori (the Spirit of Service Awards) to highlight excellent practice (Te Kawa Mataaho 2023b).

## Could the role be shared by several people or organisations?

There is no person or organisation that is clearly the best option for taking a leadership role in improving the cultural capability and relationships with Aboriginal and Torres Strait Islander people throughout the public sector, and eliminating institutional racism.

Given this, a hybrid approach may have advantages. For example, the role could be jointly given to both the Secretary of the Departments of the Prime Minister, Premier or Chief Minister and to the public service or public sector commissioner. This would allow each to draw on their strengths, while mitigating their potential weaknesses.

There is also the option of creating a new leadership group, as in South Australia (box 9). Depending on how it is structured, a newly created group could have the benefit of increasing the number and proportion of Aboriginal and Torres Strait Islander people in leadership.



### Box 9 – South Australia’s Aboriginal Affairs Executive Committee

In 2020, the South Australian Government created an Aboriginal Affairs Executive Committee.

The committee is co-chaired by the Executive Director, Aboriginal Affairs and Reconciliation from the Attorney-General’s Department and the Chief Executive of Department for Correctional Services. Its membership is made up of chief executives and Aboriginal senior leaders in the SA public sector.

The committee has established working groups that will concentrate on four priorities:

- over-representation of Aboriginal South Australians in the criminal justice sector
- economic participation
- supporting growth in ACCOs
- building capacity in vulnerable families.

Each working group consists of about 16 members, at least half of whom are Aboriginal and are drawn from across the SA public sector.

Sources: SA AGD (2022b); SA Government (2021).

Many jurisdictions have interdepartmental committees, senior executive forums and other working groups comprised of senior public servants. Members of these groups are typically senior executives (but not Secretaries or CEOs). These groups and committees are an essential component of governments’ internal coordination systems, and play an important role in breaking down silos between government departments and agencies. But, by nature, working groups and interdepartmental committees are formed around a task, and many do not have an ongoing role. This makes it hard for them to lead the significant and ongoing changes required under the Agreement.

The Commission is seeking further information on which senior leader or leadership group (or which combination of leaders or groups) 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 throughout the public sector, and how such a task might best be implemented.



### Draft recommendation 2

#### Designating a senior leader or leadership group to drive jurisdiction-wide change

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

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

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



### Information request 10

#### Senior leader or leadership group to drive change in the public sector

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?

Regardless of the leader or leadership group chosen, changes to legislation, administrative orders or other legal instruments are likely to be required in order to properly confer the new functions on them. The exact nature of the required changes will vary between jurisdictions.

## Clear responsibilities for public sector CEOs, executives and employees

In each jurisdiction across Australia, public sector CEOs, executives and employees must have certain capabilities and meet certain standards of competence, ethics and behaviour.

- In some jurisdictions, the standards of performance and behaviour are prescribed in legislation. For instance, the *Public Service Act 1999* (Cth) sets out the APS Values, APS Code of Conduct, APS Employment Principles and the roles and responsibilities of Departmental Secretaries.

- In other jurisdictions, the power to set standards is delegated to officials. For example, in Western Australia, the *Public Sector Management Act 1994* (WA) gives the WA Public Service Commissioner power to set public sector standards, codes of ethics and codes of conduct.

But regardless of their exact legislative basis, the existence of standards of performance and behaviour provide a potential mechanism for changing the incentives and motivations of public sector CEOs, executives and employees.

New Zealand has already made such a change. The *Public Service Act 2020* (NZ) explicitly recognises the role of the public service to support the Crown in its relationships with Māori under the Treaty of Waitangi, and makes chief executives of public sector agencies accountable to their Minister for upholding their responsibilities to support the Crown's relationships with Māori.

Similar changes have recently been introduced in Queensland, drawing on the New Zealand experience (box 10).



### **Box 10 – Reframing the Queensland public sector's relationship with Aboriginal and Torres Strait Islander peoples**

Queensland's *Public Sector Act 2022* (the Queensland PS Act) commenced in March 2023. It aims to ensure that the Queensland public sector is responsive to the community it serves and:

- supports the state government in reframing its relationship with Aboriginal peoples and Torres Strait Islander peoples
- ensures fairness in the employment relationship and fair treatment of its employees
- is high-performing and apolitical.

The Queensland PS Act draws on the example of New Zealand's *Public Service Act 2020*, which:

... explicitly recognises the role of the New Zealand public service to support the Crown in its relationships with Māori under Te Tiriti o Waitangi/the Treaty of Waitangi, and places responsibilities on public service leaders to develop and maintain cultural capability and understanding of Māori perspectives. Similarly, [the *Public Sector Act 2022* (Qld)] places responsibilities on chief executives to support a reframed relationship between Aboriginal peoples and Torres Strait Islander peoples and the State. (Queensland Government 2022, p. 9)

The Queensland PS Act designates all public sector entities (including government departments, hospital and health services, Queensland Police, and most statutory offices, boards, committees, councils, bodies and other groups established under legislation) as 'reframing entities'. Reframing entities must:

- a) recognise and honour Aboriginal peoples and Torres Strait Islander peoples as the first peoples of Queensland
- b) engage in truth-telling about the shared history of all Australians
- c) recognise the importance to Aboriginal peoples and Torres Strait Islander peoples of the right to self-determination
- d) promote cultural safety and cultural capability at all levels of the public sector



### **Box 10 – Reframing the Queensland public sector’s relationship with Aboriginal and Torres Strait Islander peoples**

- e) work in partnership with Aboriginal peoples and Torres Strait Islander peoples to actively promote, include and act in a way that aligns with their perspectives, in particular when making decisions directly affecting them
- f) ensure the workforce and leadership of the entities are reflective of the community they serve
- g) promote a fair and inclusive public sector that supports a sense of dignity and belonging for Aboriginal peoples and Torres Strait Islander peoples
- h) support the aims, aspirations and employment needs of Aboriginal peoples and Torres Strait Islander peoples and the need for their greater involvement in the public sector.

In effect, this gives all employees of reframing entities a duty to actively promote the perspectives of Aboriginal and Torres Strait Islander peoples.

Chief executives of reframing entities have additional responsibilities, including to make a plan for developing the entity’s cultural capability, publishing the plan, conducting an annual audit of the entity’s performance as measured against the plan, and reviewing the plan annually.

Given that the Queensland PS Act has only been in operation since March 2023, it is too soon to assess its effects. And while New Zealand’s *Public Service Act 2020* has been operating since August 2020, it has not yet been evaluated (Te Kawa Mataaho 2023a).

Early indications of its effectiveness can be found in the NZ State of the Public Service report, which notes that ‘a majority of public servants are committed and feel supported to build their understanding of te reo and tikanga Māori [Māori language and customs], but there are relatively low levels of proficiency’ (Te Kawa Mataaho 2022, p. 38). NZ public servants’ commitment to Māori language and customs bodes well for future progress, as:

Organizational capability and behavior are based on the attitudes, outlooks, and skills of a collection of individuals. And individuals will only sustainably change their behavior if they see the point of the change and agree with it. (Allas et al. 2018, p. 64)

The Queensland Government made clear that including requirements for cultural capability in public sector employment legislation is the start – not the end – of the journey.

‘Cultural capability’ of an entity is defined as the integration of knowledge about the experiences and aspirations of Aboriginal peoples and Torres Strait Islander peoples into the entity’s workplace standards, policies, practices and attitudes to produce improved outcomes for Aboriginal peoples and Torres Strait Islander peoples.

Cultural capability and cultural safety are steps on a continuum towards the aspirational goals of ‘cultural competence’ and ‘cultural security’ respectively. Given the current status quo in Queensland’s public sector, the [Public Sector Act] establishes a baseline for reframing entities to achieve cultural capability and therefore cultural capability has been defined. Other terms have intentionally not been defined, however as reframing entities mature on the journey to cultural competence and cultural security, there may be further opportunities to characterise these

concepts as part of the entity's operational workplace standards, policies, and practices.  
(Queensland Government 2022, p. 17)

So while requiring all public sector CEOs, executives and employees to become culturally capable will not immediately result in cultural competence and cultural security, it is a necessary step on that journey.

In jurisdictions other than Queensland, governments have not underpinned their commitment to 'listen to the voices and aspirations of Aboriginal and Torres Strait Islander people and change the way we work in response' (clause 19 of the Agreement) with changes to their standards for public servants' performance and behaviour. Without an explicit instruction that puts valuing the perspectives of Aboriginal and Torres Strait Islander people on a par with other core public services values and behaviours, it is not clear how the public sector will change.

Lessons from the Independent Review of the Australian Public Service suggest that changes to employment arrangements are an essential part of driving cultural change in the public sector.

Incentives and reward mechanisms must align with the expected behaviours. Too often organisations reward things that are misaligned with the desired behaviours of the organisation. Learning and development, performance assessment at all levels, promotions and appointments need to reinforce desired change. (Thodey et al. 2019, p. 83)

The Australian Government has said that in the second half of 2023, it:

... will explore further opportunities to review the *Public Service Act 1999* and related legislation to embed the Priority Reforms. Making these changes to the legislative frameworks that govern how the public service operates will better enable government organisations, and the services they provide, to be culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people. (Australian Government 2023a, p. 24)

The exact form these changes will take is still unclear, and amendments to the *Public Service Act 1999* (Cth) proposed in May 2023 do not include any changes that would make the APS more culturally safe or responsive to the needs of Aboriginal and Torres Strait Islander people (APS Reform Office 2023).

More broadly, it is not acceptable for government employees to treat adhering to the principles of the Agreement as optional – these principles reflect essential skills and behaviours without which governments cannot hope to deliver on their Closing the Gap commitments.

These principles should flow through into the performance agreements and KPIs of CEOs, executives and employees. The nature of the change to performance agreements and KPIs will vary depending on level of seniority. The strongest requirements should be placed on CEOs and executives, who would have the responsibility of opening up their organisation's processes and operations to Aboriginal and Torres Strait Islander eyes for identification of institutionalised racism (which, as discussed in information paper 4, is not something that government organisations can do without external help).

The change to performance agreements and KPIs will also vary depending on role, with those whose role involves providing policy advice about, or contributing to the design and delivery of services to, Aboriginal and Torres Strait Islander people needing to meet more stringent KPIs than those whose role is procedural or technical in nature (such as a tax clerk or meteorologist).



### Draft recommendation 3

#### Embed responsibility for improving cultural capability and relationships with Aboriginal and Torres Strait Islander people into public sector employment requirements

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

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

- improve their cultural capability
- develop relationships with Aboriginal and Torres Strait Islander people
- eliminate institutional racism
- support the principles outlined in the National Agreement on Closing the Gap.
- These requirements should flow through into the performance agreements and KPIs of CEOs, executives and employees, with the strongest requirements placed on CEOs and executives.

## Ensuring that central agencies drive changes to Cabinet, Budget, funding and contracting processes

In order to successfully embed each of the Priority Reforms, system-level changes are required. Examples of recent changes discussed in other information papers include strengthening Budget and Cabinet frameworks to elevate consideration of impacts on Aboriginal and Torres Strait Islander people in all new policies (information paper 4), and publishing strategies or guidelines to assist agencies to adopt a more relational approach to contracting (information paper 3).

But these changes are only being undertaken in one, or occasionally a handful of, jurisdictions. Some jurisdictions have not changed any of their whole-of-government processes to better the Priority Reforms and outcomes for Aboriginal and Torres Strait Islander people.

Central agencies are in the best position to lead system-level changes. This is because Departments of Finance or Treasuries set the rules for funding and contracting at a jurisdictional level. Treasuries also control the Budget processes through which other departments seek to obtain funding for new initiatives. And Departments of the Prime Minister, Premier or Chief Minister control the Cabinet processes through which many high-level government decisions are made. Other government departments and agencies must follow these processes, and have very little ability to shape them.

Aboriginal and Torres Strait Islander organisations pointed to the importance of central agencies in driving change. For example, the Kimberley Aboriginal Law and Cultural Centre said:

There is strong evidence to date of a reluctance on the part of major line agencies in the justice domain to want to participate in Co Design processes or to relinquish their control over policies and programs in the youth justice space. We can only hope that there is sufficient authority and sway from Government central agencies to overcome this stasis and this weddedness to the current status quo by large Government line agencies. (KALACC, sub. 23, p. 12)



To ensure that all government agencies act in accordance with the Agreement, it is essential that central agencies play a leadership role in ensuring that whole-of-government processes drive changes to deliver the outcomes of the Agreement.

### **Cabinet and Budget processes that support the Priority Reforms**

Shared decision-making on the design, implementation, monitoring and evaluation of policies and programs to improve life outcomes for Aboriginal and Torres Strait Islander people is at the heart of the Agreement. When it comes to Cabinet and Budget processes, this means ensuring that Aboriginal and Torres Strait Islander perspectives are fully incorporated into all aspects of Cabinet and Budget decision-making processes.

Some jurisdictions have made changes to their Cabinet and Budget processes as part of their efforts to implement the Priority Reforms (information papers 3 and 4). For example, in December 2022 the Australian Government introduced a new requirement for government organisations to demonstrate how they will meet obligations under the Agreement when they are seeking new funding in the Budget process (Department of Finance 2022, p. 6).

In jurisdictions that are yet to make such changes, it will be important to consider how they could be implemented in ways that align with all of the Priority Reforms. This could mean, for example, that instead of requiring consultation with the government department or agency with responsibility for Aboriginal and Torres Strait Islander policy, there would be a requirement to consult with Aboriginal and Torres Strait Islander partners on issues affecting them (as already required under the Agreement).

It is also important to consider all of the component parts of decision-making processes. Changes to Cabinet *and* Budget systems will be more impactful than changes to Cabinet or Budget systems alone. And there also needs to be a process for ensuring that changes to Cabinet and Budget systems are reflected in guidance materials and subsidiary policy analyses. Such a process might have meant that when the Australian Government updated its Guide to Policy Impact Analysis, it consulted with the NIAA (as required by its Cabinet processes) or with Aboriginal and Torres Strait Islander partners. But instead, the March 2023 edition of the guide mentions ‘indigeneity’ once and contains no guidance about the need to, and or the importance of, assessing the impact of policies on Aboriginal and Torres Strait Islander people (DPMC 2023a).

### **Funding and contracting rules that support the Priority Reforms**

As noted in information paper 3, to date there has been mixed progress in amending funding and commissioning guidelines to prioritise ACCOs (as required by Priority Reform 2). As the responsible agencies, Departments of Finance or Treasuries need to play a key role in addressing any shortfall and ensuring that funding and contracting arrangements align with the Agreement.

The first stage of this task is to assess the extent to which funding and contracting arrangements support the Agreement and its Priority Reforms. This assessment should be done in a way that aligns with all of the Priority Reforms – not just making isolated rule changes to prioritise ACCOs, but seeking Aboriginal and Torres Strait Islander perspectives on which rules need to change and why. The assessment should also include consideration of the potential to put 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. Such obligations would provide another mechanism by which Aboriginal and Torres Strait Islander people could hold governments accountable (information paper 3).

The second stage is to make any required changes. It is also possible that it is not the rules or guidelines about funding and commissioning that need to change – the rules and guidelines may be adequate in themselves, but may currently be applied in ways that are inconsistent with the Agreement. If it is practices

and habits (rather than the rule and guidelines) that are impeding implementation of the Agreement and its Priority Reforms, then Departments of Finance or Treasuries are best placed to issue binding instructions to change those practices and habits.



#### Draft recommendation 4

#### Central agencies leading changes to Cabinet, Budget, funding and contracting processes

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

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

## Sector-specific accountability mechanisms

In addition to whole-of-government accountability mechanisms, there are numerous authorities and regulators that are designed to provide accountability in particular sectors. They include health and community services complaints commissioners, children's commissioners and sector-specific ombudsmen. There are also numerous occupational regulators, whose role is to protect the safety of consumers and/or the public, and ensure a sufficient and reliable level of service quality for services delivered by people registered in those occupations.

Review participants emphasised the importance of sector-specific accountability mechanisms. For example, the Aboriginal Family Legal Service WA said that accountability mechanisms should include a Commissioner for Aboriginal Children and Young People in every state and territory (sub. 7, p. 8).

In its community consultations, NSW CAPO found that:

Accountability is needed in everyday interactions. Complaints by Aboriginal people are being ignored, or not taken seriously. A more effective and independent system for raising issues is needed. (2022, p. 27)

In sectors in which there are sector-specific accountability mechanisms, there are concerns that these mechanisms are not working well for Aboriginal and Torres Strait Islander people. Reviews of sectors covered by these mechanisms have pointed to continued failings. For example, in an Independent Review of Aboriginal Children in Out-of-Home Care in New South Wales:

The need for more accountability—and in particular, the need for there to be consequences or sanctions when [Department of Communities and Justice] staff do not comply with legislation and policy—emerged as a major theme in submissions to the Review. (Davis 2019, p. 105)

But in sectors where they do not exist, there are moves to establish sector-specific accountability mechanisms for Aboriginal and Torres Strait Islander people. For example, in *Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031*, governments have agreed to:

- develop agreed minimum requirements for Aboriginal and Torres Strait Islander Children's Commissioner roles in partnership with Aboriginal and Torres Strait Islander people
- establish such roles where they do not exist

- review and strengthen existing roles against the minimum requirements for independent, effective and empowered Commissioners (DSS 2023, p. 42).

In sectors in which there are not specific accountability mechanisms for Aboriginal and Torres Strait Islander people, building cultural capability in mainstream agencies is essential. But smaller agencies such as health and community services complaints commissioners, children’s commissioners and sector-specific ombudsmen are not included in jurisdictions’ implementation plans (as noted in information paper 6, many agencies are not included in these plans). This means that there is little visibility about what, if anything, these agencies are doing to implement the Agreement.

We are seeking further information on how sector-specific mechanisms can work most effectively, and how they can contribute to enhancing accountability for implementing the Priority Reforms and improving outcomes for Aboriginal and Torres Strait Islander people.



### Information request 11 Sector-specific accountability mechanisms

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

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

## 5 Improving transparency about actions taken to implement the Agreement

The need for transparency is emphasised in multiple places in the Agreement. Transparency is essential so that the community can clearly see how parties intend for their actions to deliver the objectives of the Agreement and lead to improved outcomes for Aboriginal and Torres Strait Islander people.

One of the main ways in which transparency could be improved is to improve jurisdictional implementation plans and annual reports. This is considered in detail in information paper 6. But briefly, it could involve ensuring that implementation plans and annual reports are prepared in line with clauses 108 and 118 of the Agreement. This would mean that annual reports demonstrate how efforts, investment and actions are aligned and support the achievement of Closing the Gap goals, and 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 Commission is seeking suggestions for how to ensure that governments' implementation plans and annual reports substantively meet the requirements set out in the Agreement (information request 8).

But in addition to better jurisdictional implementation plans and annual reports, there are also other ways in which transparency could be improved. They are:

- including information about Closing the Gap in agencies' annual reports
- publishing many more of the documents developed under the Agreement.

## Information about Closing the Gap in agencies' annual reports

### Annual reports contain much more than financial information

Government agencies are required to prepare annual reports. These reports must comply with relevant legislation or rules and include certain specified information, which makes them an important input for accountability. For example, in New South Wales:

The annual report is the key medium by which NSW Public Sector entities discharge their accountability to the Parliament, the Government and the public. It provides an overview of an entity's activities and financial position relating to the preceding year. (NSW Treasury 2022)

In addition to financial statements, a wide range of other information is typically included in government agencies' annual reports (box 11). The annual reporting requirements for Australian Government agencies are even broader, and include requirements for reporting everything from judicial decisions to procurement practices to support small and medium enterprises (Department of Finance 2023a) to how the agency's activities accord with the principles of ecologically sustainable development (DCCEEW 2023).



#### Box 11 – Content of annual reports – an example from the Northern Territory

Jurisdictions each have legislation (and in some cases, other legislative instruments) that prescribe the content of government agencies' annual reports. For example, in the Northern Territory the *Public Sector Employment and Management Act 1993* requires agencies to produce an annual report within 3 months after the end of the financial year. The report must contain information about:

- the functions and objectives of the agency
- legislation administered
- organisation overview, including number of employees of each designation and any variation in those numbers since the last report
- operations, initiatives and achievements relating to planning, efficiency, effectiveness, performance and service delivery to the community
- measures taken to ensure public sector principles were upheld
- management training and staff development programs
- occupational health and safety programs, and
- financial statements prepared in accordance with sections 11 and 13 of the *Financial Management Act 1995* (NT).

Source: NT Department of the Chief Minister and Cabinet (2022, p. 5).

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## How could reporting on Closing the Gap actions be included in annual reports?

In some jurisdictions, agencies' annual reports must include reporting on the measures taken to ensure public sector principles are upheld or the number and proportion of Aboriginal and Torres Strait Islander staff. These requirements, together with the proposed changes to those principles (which form the basis of public sector employment requirements – draft recommendation 3) could, in effect, require agencies in those jurisdictions to report on some of the actions they are taking to implement the Agreement.

But this kind of partial reporting is not a substitute for comprehensive and considered reporting on how agencies are implementing the Agreement. Requiring government agencies to include information about Closing the Gap in each of their annual reports would provide an important means of ensuring that every agency is making a substantive effort to implement the Priority Reforms and to track the outcomes it achieves for Aboriginal and Torres Strait Islander people.

Reporting on Closing the Gap in agencies' annual reports could take the form of requiring each agency to report on the substantive activities it undertook to implement the Priority Reforms and the demonstrated outcomes of those activities. This would be a principles-based requirement that could adapt depending on each agency's function – for example, an agency that commissions health or community services from many ACCOs would report more extensively on its activities to implement the Priority Reforms than an agency whose work does not involve commissioning any services for Aboriginal and Torres Strait Islander people.

At a minimum, a requirement to report on Closing the Gap in agencies' annual reports should include reporting on:

- how each of the Priority Reforms have been implemented in the agency
- how the agency has contributed to relevant socio-economic outcomes
- how the agency tracks the outcomes it achieves for Aboriginal and Torres Strait Islander people
- how the agency assessed the effectiveness of each of the above actions.

Statements on Closing the Gap in agencies' annual report would be a complement to, and would not replace, improvements to Closing the Gap annual reports and implementation plans (information request 8). The inclusion of unfiltered appraisals from Aboriginal and Torres Strait Islander partners would enhance the credibility of the annual reports and their usefulness for future planning, and this is being considered for inclusion in jurisdictions' Closing the Gap annual reports (information paper 6).

In practice, a requirement to report on Closing the Gap in agencies' annual reports could be similar to the current requirement for Australian Government agencies to report on their environmental performance and contribution to ecologically sustainable development (box 12).



### Box 12 – Reporting on environmental matters in annual reports

Under section 516A of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act), the annual reports of Australian Government departments, authorities and agencies must:

- report how the agency’s activities have accorded with the principles of Ecologically Sustainable Development (ESD)
- identify how their departmental outcomes contributed to ESD
- report on their impacts upon the environment and measures taken to minimise those impacts
- identify the review mechanisms they used to improve the effectiveness of their measures to minimise its impact upon the environment (DCCEEW 2023).

The former Department of the Environment, Water, Heritage and the Arts produced guidelines to assist agencies to meet these requirements, which include simple tools and template that agencies can apply when undertaking their EPBC Act reporting (DEHWA 2010).

An Independent Review of the EPBC Act commented on the effectiveness of requiring Australian Government agencies to report on ESD activities and outcomes in their annual reports.

The intent is to provide a mechanism to ensure the Commonwealth is considering ESD in its operations, but this has been lost over time. The reality is that most Commonwealth entities report on their use of recycled paper or the energy efficiency of buildings, but exclude the environmental impacts of the policies and programs they implement. It is an administrative burden with no real benefit. (Samuel 2020, p. 177)

This provides an important reminder that even if they are beneficial when implemented, reporting requirements should not be left unchanged for decades, as once they have spurred the change they were designed to achieve, they risk becoming an unnecessary burden over time.

In addition to improving transparency, requiring government agencies to include information about Closing the Gap in their annual reports would have other benefits.

- It would ensure that all agencies – including those that are not currently included in implementation plans and annual reports (information paper 6) – are taking action to meet their responsibilities under the Agreement.
- Because agency CEOs are ultimately responsible for all of the contents of their agency’s annual report, it would provide another means of ensuring that CEOs are aware of, and pay attention to, the agency’s actions to implement the Priority Reforms and to track the outcomes achieved for Aboriginal and Torres Strait Islander people.
- The legislation or rules about what must be included in annual reports would provide another lever to increase the perceived consequences of failure to adhere to the Agreement.

This is not to deny that there is the potential for agencies to treat including information about Closing the Gap in their annual reports as simply another reporting burden – a ‘tick and flick’ exercise. However, an agency that adopts this ‘tick and flick’ attitude is highly likely to be one that is currently doing little, if anything, to implement the Priority Reforms. This means that taking actions to implement the Priority Reforms, even if largely motivated by the need to fulfill the reporting requirement, would be a step in the right direction.



### Draft recommendation 5

#### Include a statement on Closing the Gap in government agencies' annual reports

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

## Publishing documents developed under the Agreement

Another important element of transparency is to make it clear to the community how governments' actions will collectively lead to delivery of the reforms to which they have committed. But many of the outputs that have been developed under, or are highly relevant to, the Agreement are not publicly available.

- **Partnership stocktakes.** Only Queensland, Victoria and the Australian Government have published partnership stocktakes and reviews – others remain uncompleted or unpublished (information paper 2).
- **Partnership agreements.** Of the five policy partnerships, only three (justice, early childhood care and development, and social and emotional wellbeing) have been made public (information paper 2).
- **Expenditure reviews.** Only New South Wales has publicly released its review of expenditure on Aboriginal and Torres Strait Islander programs and services (information paper 3).
- **Evaluations.** Currently, it is not easy for policy makers and other evaluation users to access evaluation evidence, nor is it easy to identify evidence gaps that evaluations could fill. Many evaluations are not published, and evaluation evidence is not collected in one central place (PC 2020, p. 39).

When stocktakes, agreements, reviews and evaluations are not published, it makes it much harder for Aboriginal and Torres Strait Islander organisations and communities, as well as the broader Australian community, to understand whether governments are moving beyond a business-as-usual approach, and to hold them accountable for meeting their commitments.

As with all of the actions under the Agreement, it is essential that improving transparency by publishing all relevant documents is done in a way that is consistent with the Agreement and its Priority Reforms, and centres Aboriginal and Torres Strait Islander people and perspectives. This includes following Indigenous data sovereignty principles (information paper 5).

The application of ethical practices sees Aboriginal communities as the owners of all evaluation reports. It is communities' decision to release reports and to whom including publication. Taking this approach, all but one of the reports arising from the OCHRE [NSW Government plan for Aboriginal Affairs] evaluation have been published. At this stage the unpublished report has been made available to the relevant public service agency to inform the development of policy and practice. (Aboriginal Affairs NSW 2019, p. 3)

Other good practices include publishing a response to evaluation findings (box 13). This is essential, as transparency about issues without action to address them can compound the very issues that it is designed to address.

States often think of accountability as the uncovering and sharing of information to the public through transparency mechanisms or from agents to principals in funding arrangements. However, to be effective, accountability frameworks must not only provide information, but result

in action, or they will fatigue and undermine trust in change across Indigenous-settler relationships (Jumbunna Institute 2020, p. 27)



### **Box 13 – Good practice in publishing and responding to evaluations**

In its Indigenous Evaluation Strategy, the Commission found that:

... agencies should publish all evaluations of policies and programs affecting Aboriginal and Torres Strait Islander people. Where there are concerns that publishing a full evaluation report would compromise confidentiality or privacy, or where there is culturally sensitive information, a summary report should be published instead. All published evaluation reports should have a clear and concise summary of the evaluation findings. Evaluation reports should document details of data collected, approaches and methods used, ethical practices, limitations of the evaluation, and costs. The evaluation summary report should also document how the evaluation adhered to the principles of the [Indigenous Evaluation] Strategy.

Consistent with good ethical research practice, agencies should share evaluation findings with Aboriginal and Torres Strait Islander people, communities and organisations who are participants in evaluations or stakeholders in the relevant policies and programs.

Agencies should also publish their management response to evaluation findings (this could be included as part of the evaluation report or separately). This should include an explanation about what they have learned, what they have changed in response to the findings, and any further action they intend to take.

Source: PC (2020, p. 39).



### **Draft recommendation 6**

#### **Publish all the documents developed under the Agreement**

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

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



## References

- Aboriginal Affairs NSW 2019, *Submission on the Indigenous Evaluation Strategy*, sub. 70, Productivity Commission.
- ACT Government 2023, *Community Services Directorate Organisational Chart*.
- Allas, T., Checinski, M., Dillon, R., Dobbs, R., Cadenas, A., Daly, E., Fine, D., Hieronimus, S., Singh, N. and Hatwell, J. 2018, *Delivering for citizens: How to triple the success rate of government transformations*, Discussion Paper, June, McKinsey Center for Government.
- APS Reform Office 2023, *Public Service Amendment Bill Explanatory Material*, May.
- Australian Government 2023a, *Commonwealth Closing the Gap Implementation Plan 2023*, Canberra.
- 2023b, *Voice Principles*, <https://voice.gov.au/about-voice/voice-principles> (accessed 17 May 2023).
- Black Dog Institute 2020, *Lived experience definition released for Aboriginal and Torres Strait Islander communities*, <https://www.blackdoginstitute.org.au/media-releases/lived-experience-definition-released-for-aboriginal-and-torres-strait-islander-communities/> (accessed 26 June 2023).
- Davis, M. 2019, *Family is Culture: Independent Review of Aboriginal Children in Out-of-Home Care in New South Wales*, <https://www.familyisculture.nsw.gov.au> (accessed 22 March 2023).
- DCA (Diversity Council Australia) 2022, *Racism at Work: How Organisations Can Stand Up to and End Workplace Racism*, Sydney.
- DCCEEW (Department of Climate Change, Energy, the Environment and Water) 2023, *Measuring our performance under the EPBC Act*, <https://www.dcceew.gov.au/environment/epbc/our-role/our-performance#annual-reports-of-all-commonwealth-agencies> (accessed 9 May 2023).
- DEHWA (Department of the Environment, Water, Heritage and the Arts) 2010, *Guidelines for Section 516A reporting - Environment Protection and Biodiversity Conservation Act 1999 - DCCEEW*, <https://www.dcceew.gov.au/environment/epbc/publications/guidelines-section-516a-reporting-environment-protection-and-biodiversity-conservation-act> (accessed 24 May 2023).
- Department of Finance 2022, *Budget Process Operational Rules*, December, Canberra.
- 2023a, *Annual report content requirements*, <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/annual-reports-non-corporate-commonwealth-entities-rmg-135/annual-report-content-requirements-0> (accessed 9 May 2023).
- 2023b, *Why evaluate?*, <https://www.finance.gov.au/government/managing-commonwealth-resources/planning-and-reporting/commonwealth-performance-framework/evaluation-commonwealth-rmg-130/why-evaluate> (accessed 22 June 2023).
- DPMC (Department of the Prime Minister and Cabinet) 2023a, *Australian Government Guide to Policy Impact Analysis*, Office of Impact Analysis, March.
- 2023b, *Secretaries Board*, <https://www.pmc.gov.au/about-us/accountability-and-reporting/corporate-reporting/secretaries-board> (accessed 23 June 2023).
- DSS (Department of Social Services) 2023, *Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023-2026*, 31 January.
- Ferguson, B. 2019, *Competing for Influence*, ANU Press, <https://press.anu.edu.au/publications/series/anzsog/competing-influence> (accessed 22 June 2023).
- First Peoples' Assembly of Victoria 2022, *Stop locking up 10 year old kids: First Peoples' Assembly draws line in the sand for reelected Andrews Government*, Media release, 8 December, <https://www.firstpeoplesvic.org/news/stop-locking-up-10-year-old-kids/> (accessed 18 May 2023).
- and the State of Victoria 2022, *Treaty Negotiating Framework*, 20 October.
- Frydenberg (Frydenberg, J. (Treasurer)) 2021, *2021 Intergenerational Report - Australia over the next 40 years*, June, Treasury.
- Gladman, J., Ryder, C. and Walters, L. 2015, 'Measuring organisational-level Aboriginal cultural climate to tailor cultural safety strategies', *Rural and Remote Health*, vol. 15, no. 4, p. 3050.
- Harper, I., Anderson, P., McCluskey, S. and O'Bryan, M. 2015, *Competition Policy Review*, March, Canberra.
- Hoffman, S. 2022, *The National Agreement on Closing the Gap – and what it means for public servants*, July, ANZSOG.
- Howard-Wagner, D. and Markham, F. 2022, *Preliminary Findings of the OCHRE Local Decision Making Stage 2 Evaluation*, Commissioned Report No. 01/2023, Centre for Aboriginal Economic Policy Research, Australian National University.
- IBAC (Independent Broad-based Anti-corruption Commission) 2022, *Victoria Police handling of complaints made by Aboriginal people*, Audit report, May.
- Jumbunna Institute (Jumbunna Institute Indigenous Policy Hub) 2020, *Accountability Frameworks between States and Indigenous peoples — a literature review*, Study for Aboriginal Affairs NSW, University of Technology Sydney.
- Legislative Assembly of the Northern Territory 2023, *Inquiry into a Process to Review Bills for their Impact on First Nations Territorians*, <https://parliament.nt.gov.au>, <https://parliament.nt.gov.au/committees/list/LCAC/IFNT> (accessed 22 May 2023).
- Malinauskas (Malinauskas, P (Premier of South Australia)) 2023, *First Nations Voice Bill Second Reading Speech*, South Australia House of Assembly Hansard, 7 March.
- McCallum, J., Orthia, L. and Hosking, D. 2023, 'Situating Social Developments within Intergenerational Reports', in Podger, A., Hall, J. and Woods, M. (eds), *More Than Fiscal-The Intergenerational Report, Sustainability and Public Policy in Australia*, ANU Press.
- NCC (National Competition Council) nd, *About the National Competition Policy*, <http://ncp.ncc.gov.au/pages/about> (accessed 23 May 2023).

- NIAA (National Indigenous Australians Agency) 2022, *Our Business*, <https://www.niaa.gov.au/our-business> (accessed 26 June 2023).
- NSW CAPO (NSW Coalition of Aboriginal Peak Organisations) 2022, *NSW CAPO Closing the Gap Community Engagement Report*.
- NSW DPC (NSW Department of Premier and Cabinet) 2023, *About the Department*, <https://www.dpc.nsw.gov.au/about-us/about-the-department/> (accessed 22 June 2023).
- NSW Legislative Council 2022, *Commencement of the Fisheries Management Amendment Act 2009*, November, Portfolio Committee No. 4 – Customer Service and Natural Resources. Report No. 55, New South Wales Parliament.
- NSW Public Service Commission 2021, *Everyone's Business - Building culturally safe workplaces and services*, <https://www.psc.nsw.gov.au/culture-and-inclusion/aboriginal-workforce/everyonee28099s-business> (accessed 24 May 2023).
- NSW Treasury 2022, *Annual Reporting*, <https://www.treasury.nsw.gov.au/information-public-entities/annual-reporting> (accessed 9 May 2023).
- NT Department of the Chief Minister and Cabinet 2022, *Annual Report 2021-22*, September.
- NT Government 2021, *Aboriginal Affairs*, <https://aboriginalaffairs.nt.gov.au>, <https://aboriginalaffairs.nt.gov.au> (accessed 26 June 2023).
- NTCOSS (NT Council of Social Services) 2022, *CONSULT NOW: Aboriginal Communities Must Not be Blindsided by New Liquor Laws*, <https://ntcoss.org.au/news/joint-media-release/> (accessed 29 March 2023).
- PC (Productivity Commission) 2012, *Regulation Impact Analysis: Benchmarking*, Research Report, Canberra.
- 2020, *Indigenous Evaluation Strategy, Background Paper*, Canberra.
- 2023a, *Closing the Gap Annual Data Compilation Report*, July.
- 2023b, *Review of the National Agreement on Closing the Gap - Review paper 3: What we have heard to date - first phase of engagement*, Productivity Commission, Canberra.
- QPC (Queensland Productivity Commission) 2017, *Service Delivery in Remote and Discrete Aboriginal and Torres Strait Islander Communities*, Brisbane.
- QPSC (Queensland Public Sector Commission) 2023, *A summary of changes to departments of government*.
- Queensland Government 2022, *Public Sector Bill 2022 Explanatory Notes*.
- SA AGD (SA Attorney-General's Department) 2022a, *Aboriginal Affairs and Reconciliation*, <https://www.agd.sa.gov.au/aboriginal-affairs-and-reconciliation> (accessed 26 June 2023).
- 2022b, *Aboriginal Affairs Executive Committee*, <https://www.agd.sa.gov.au/aboriginal-affairs-and-reconciliation/aboriginal-affairs-executive-committee> (accessed 27 June 2023).
- 2023, *South Australia's First Nations Voice to Parliament*, <https://www.agd.sa.gov.au/aboriginal-affairs-and-reconciliation/first-nations-voice-to-the-south-australian-parliament> (accessed 18 May 2023).
- SA Government 2021, *South Australia's Implementation Plan for the National Agreement on Closing the Gap*.
- Samuel, G. 2020, *Independent Review of the EPBC Act – Final Report*, October.
- Strelein, L. and Hassing, C. 2018, *An office for advocacy and accountability in Aboriginal affairs in Western Australia*, 2 October, Australian Institute of Aboriginal and Torres Strait Islander Studies.
- TDPC (Tasmanian Department of Premier and Cabinet) 2023, *Department of Premier and Cabinet Organisation chart*, 1 March.
- nd, *Office of the Secretary*, [https://www.dpac.tas.gov.au/divisions/office\\_of\\_the\\_secretary](https://www.dpac.tas.gov.au/divisions/office_of_the_secretary) (accessed 22 June 2023).
- Te Arawhiti 2022a, *Māori Crown relations capability framework for the public service – organisational capability component*, September.
- 2022b, *Our Annual Report for 2021 to 2022*, Wellington.
- 2023a, *Te Kāhui Hikina (Māori Crown Relations)*, <https://www.tearawhiti.govt.nz/te-kahui-hikina-maori-crown-relations/> (accessed 26 June 2023).
- 2023b, *Te Kāhui Takutai Moana (Marine and Coastal Area)*, <https://www.tearawhiti.govt.nz/te-kahui-takutai-moana-marine-and-coastal-area/> (accessed 26 June 2023).
- 2023c, *Te Kāhui Whakamana (Settlement Commitments)*, <https://www.tearawhiti.govt.nz/te-kahui-whakamana-settlement-commitments/> (accessed 26 June 2023).
- 2023d, *Te Kāhui Whakatau (Treaty Settlements)*, <https://www.tearawhiti.govt.nz/te-kahui-whakatau-treaty-settlements/> (accessed 26 June 2023).
- 2023e, *Tēnā koutou katoa*, <https://www.tearawhiti.govt.nz/about-us/> (accessed 26 June 2023).
- Te Kawa Mataaho 2022, *Te Kahu Tuatini State of the Public Service*, December, <https://www.publicservice.govt.nz/assets/DirectoryFile/State-of-the-Public-Service-Digital.pdf> (accessed 31 March 2023).
- 2023a, *Response to Official Information Request OIA 2023-0016*, <https://www.publicservice.govt.nz/assets/DirectoryFile/Information-request-regarding-evaluation-of-the-Public-Service-Act-2020.pdf> (accessed 28 March 2023).
- 2023b, *System leadership for Māori Crown relations*, Te Kawa Mataaho Public Service Commission, <https://www.publicservice.govt.nz/role-and-purpose/maori-crown-relationships/system-leadership-for-maori-crown-relations/> (accessed 24 May 2023).
- Thodey, D., Carnegie, M., Davis, G., de Brouwer, G., Hutchinson, B. and Watkins, A. 2019, *Our Public Service, Our Future. Independent Review of the Australian Public Service*, 20 September.
- VDPC (Victorian Department of Premier and Cabinet) 2021, *About First Peoples - State Relations*, <http://www.firstpeoplesrelations.vic.gov.au/about-first-peoples-state-relations> (accessed 26 June 2023).
- VPSC (Victorian Public Sector Commission) 2023, *The Victorian Public Sector*, <https://vpsc.vic.gov.au/about-public-sector/the-victorian-public-sector/> (accessed 22 June 2023).
- WA DPC (WA Department of the Premier and Cabinet) 2018, *An office for advocacy and accountability in Aboriginal affairs in Western Australia Discussion Paper*, June, WA Government.
- 2023, *Aboriginal Engagement Directorate*, <https://www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/aboriginal-engagement-directorate-department-of-the-premier-and-cabinet> (accessed 26 June 2023).

WA Government 2022, *Annual Report on Closing the Gap*, September.

WA Public Sector Leadership Council 2023, *Future Enabled: A strategic narrative of professionalism, purpose and pride in the Western Australian public sector*, February.

Wright, M., Brown, A., Dudgeon, P., McPhee, R., Coffin, J., Pearson, G., Lin, A., Newnham, E., King Baguley, K., Webb, M.,

Sibosado, A., Crisp, N. and Flavell, H.L. 2021, 'Our journey, our story: a study protocol for the evaluation of a co-design framework to improve services for Aboriginal youth mental health and well-being', *BMJ Open*, vol. 11, no. 5, p. e042981.

Yoorrook Justice Commission 2023, *About Yoorrook*, <https://yoorrookjusticecommission.org.au/overview/> (accessed 18 May 2023).