Review of the National Agreement on Closing the Gap 2026

Submission to the Productivity Commission

23 October 2026

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Executive summary

1. The Australian Human Rights Commission (the Commission) welcomes the opportunity to contribute to the Productivity Commission's 2026 Review of the National Agreement on Closing the Gap (the National Agreement).
2. This submission outlines our concerns about the limited progress, and in some areas stagnation or regression, against National Agreement Targets and Priority Reforms[1]. We argue that these failures reflect both an entrenched accountability deficit within governments and an inadequate focus on implementing and assessing the National Agreement through a human rights lens.
3. In charting a way forward, we have drawn upon findings and recommendations of the Aboriginal and Torres Strait Islander Social Justice Commissioner, Katie Kiss's *A Fair and Just Future for First Peoples, Social Justice Report 2025* *(Social Justice Report 2025)*, in particular its fifth chapter 'Fostering systemic integrity and accountability' and its seven recommendations.
4. Together, these recommendations provide a practical roadmap for strengthening integrity, transparency and accountability within Closing the Gap through independent oversight, transparent expenditure, long-term investment in the community-controlled sector, Indigenous data sovereignty, anti-racism measures and rigorous performance monitoring. They also support implementation of the National Agreement through a human rights-based approach aligned with Australia's international obligations to Aboriginal and Torres Strait Islander peoples and grounded in self-determination, participation in decision-making, non-discrimination, and respect for and protection of culture.
5. These reforms are necessary if the National Agreement is to deliver the transformational change promised to Aboriginal and Torres Strait Islander peoples and other members of the Australian public.

Recommendations

6. We make the following recommendations.

Recommendations

1. The Australian Government should provide the Aboriginal and Torres Strait Islander Social Justice Commissioner with formal observer status within Closing the Gap Partnership structures.
2. The Australian Government should work in partnership with First Peoples to design and establish a national framework for expenditure on services

for Indigenous communities. This should include replacing short-term funding with needs-based formulas that provide Aboriginal and Torres Strait Islander community-controlled organisations with direct, long-term, sustainable funding (including for monitoring and evaluation capacity).

3. The Australian Government should carry out transparent, independent financial and performance audits of Indigenous-specific and mainstream expenditure to ensure spending delivers on Closing the Gap commitments and community priorities.
4. The Australian Government should implement binding data-sharing and governance agreements across all levels of government that uphold Indigenous data sovereignty principles. The agreements should ensure accountability to Aboriginal and Torres Strait Islander communities through measures informed by, and agreed to by, communities themselves.
5. Australian governments should incorporate into their Cabinet and Parliamentary Handbooks a requirement that all legislative, policy and program proposals align with Australia's human rights obligations to First Peoples, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
6. The Australian Government should accept and implement the National Anti-Racism Framework (NARF).
7. The Productivity Commission should recommend an independent, cross-jurisdictional audit of government annual reporting under Priority Reform Three to assess whether Government Parties are meeting their commitments to transform government organisations, including the reporting commitment in clause 65 of the National Agreement. The audit should assess performance against each transformation element, identify gaps in implementation and reporting, and establish a transparent baseline for monitoring future progress.
8. The Australian Government should build rights-based performance requirements into funding agreements with states and territories. Performance indicators should align with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), implementation of the Closing the Gap priority reforms and progress against the Closing the Gap socio-economic targets. Jurisdictional performance reporting should be subject to rigorous independent monitoring and evaluation (in accordance with clause 67 of the National Agreement on Closing the Gap).

Introduction

7. The Australian Human Rights Commission (the Commission) welcomes the opportunity to provide this submission to the Productivity Commission's 2026 Review of the National Agreement on Closing the Gap (the National Agreement).

8. Our submission addresses the status of the integrity, accountability and governance arrangements that underpin the National Agreement and how this is impacting outcomes.

9. Our submission highlights the findings and recommendations of the Aboriginal and Torres Strait Islander Social Justice Commissioner, Katie Kiss's *A Fair and Just Future for First Peoples: Social Justice Report 2025* (*Social Justice Report 2025*), in particular its fifth chapter 'Fostering systemic integrity and accountability'. It emphasises the role of human rights in guiding implementation and measuring progress under the National Agreement.

10. We note with concern, but without surprise, the mixed and – on the whole – very limited progress made to date against Closing the Gap Targets and in implementing Closing the Gap Priority Reforms.

11. When former Aboriginal and Torres Strait Islander Social Justice Commissioner Tom Calma put forward his 'human rights-based approach to health' framework in the *Social Justice Report 2005*, he explicitly emphasised accountability as essential to achieving lasting change.[2] It is this work which provided the catalyst for the Government's Closing the Gap Strategy in 2008. Nonetheless, over the past 18 years, accountability has never been effectively built into the operation of the policy.

12. Looking to the future and the conditions required to improve performance, we note with grave concern the failure by governments to establish the accountability mechanisms – due for completion 3 years ago under the National Agreement – necessary to ensure the achievement of outcomes.

13. If it is to succeed, the next phase of Closing the Gap must place far greater emphasis on transparency, independent oversight, Indigenous data sovereignty, long-term funding certainty, and alignment with Australia's human rights obligations.

Fostering systemic integrity and accountability

14. The National Agreement contains many of the ingredients required for success. However, it lacks sufficiently robust mechanisms to hold governments accountable for building and maintaining the coherent, rights-affirming policy settings required to deliver lasting change. As a result, most targets remain off track, and several continue to worsen.[3]

15. It is not enough for governments to commit to addressing structural inequality. Effective implementation must also be demonstrated and subject to independent scrutiny and review. The Productivity Commission's 2024 review of the National Agreement found its accountability mechanisms weak to the point of being effectively absent, lacking in the independence and consequences needed to drive the change envisaged by the Agreement.[4]

16. This accountability deficit is not unique to Closing the Gap. It is also evident in Australia's longstanding failure to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) and the *Bringing Them Home* report, in Australia's reluctance to fully embed its human rights obligations in domestic law, and in the failure to implement the National Anti-Racism Framework despite growing evidence of the pervasive and systemic racism experienced by Aboriginal and Torres Strait Islander peoples.[5]

17. The RCIADIC provides an especially stark example of the failure of government to prioritise accountability even where it has been urgently mandated to do so. Over three decades after the Royal Commission, meaningful implementation of many of the recommendations of the RCIADIC remains incomplete and, since 1991, at least 630 Indigenous people have died in custody.[6] Criminal accountability for deaths involving Aboriginal and Torres Strait Islander people in custody remains exceptionally rare[7] and independent investigation mechanisms are largely absent.[8]

18. Until governments are willing to hold themselves to the same standard of accountability they demand of Aboriginal and Torres Strait Islander communities and organisations, progress towards Closing the Gap will continue to stall.

Accountability must become a central focus of Closing the Gap implementation

19. The National Agreement recognises that improvements in socio-economic outcomes depend upon implementation of the four Priority Reforms, including formal partnerships, a strong community-controlled sector, transformed government institutions, and shared access to data.

20. Nonetheless, over halfway through its term many of the structural barriers identified at the commencement of the Agreement remain in place. Aboriginal and Torres Strait Islander communities continue to report significant concerns regarding inconsistent partnership arrangements, limited transparency regarding government expenditure, fragmented accountability mechanisms, and inadequate opportunities to influence decision-making. As the *Social Justice Report 2025* observes, even where advances have been made, they have too often 'fallen short of the structural change and accountability needed to reset relationships on an equal footing.'[9]

21. The failure of governments to demonstrate accountability in their commitment to the National Agreement's reforms is strikingly evident in the Northern Territory and Queensland Governments' recent 'tough on crime' legislative changes which were introduced with little or no consultation with Aboriginal and Torres Strait Islander peak organisations.[10] These include allowing children to be held for extended periods in adult watch houses and the expanded use of separation/isolation protocols in juvenile facilities. As the Productivity Commission points out, these decisions contradict Australian governments' commitments under the National Agreement and exacerbate disadvantage and discrimination.[11]

22. That these developments have been able to progress unchecked is a direct consequence of the National Agreement's weak accountability mechanisms.[12] There is no effective accountability mechanism requiring governments to publicly account for whether the measures they take worsen Closing the Gap outcomes.

23. A key lesson from previous policy approaches is that outcomes are unlikely to improve where governments are not held accountable for delivering on commitments. Closing the Gap should therefore be assessed not only by reference to socio-economic indicators, but also by whether governments are successfully implementing the structural reforms required by the National Agreement.

24. The *Closing the Gap Independent Aboriginal and Torres Strait Islander Led Review* delivered by the Jumbunna Institute identified adequately resourced, co-designed, multi-jurisdictional independent mechanisms as critical to effective

government oversight.[13] Without such mechanisms for scrutinising government performance, it will remain almost impossible to determine whether structural reforms are being implemented or merely reported as such. Where governments are the sole arbiters of their own performance, meaningful progress on Closing the Gap reforms will continue to stall.

Strengthening independent oversight

25. Independent oversight of Closing the Gap implementation should be strengthened.

    The Aboriginal and Torres Strait Islander Social Justice Commissioner has a unique statutory role in monitoring the promotion and protection of the human rights of Aboriginal and Torres Strait Islander peoples. Participation by the Commissioner as an independent observer within Closing the Gap governance structures would strengthen transparency, improve public accountability and support independent monitoring of progress.

26. We therefore reiterate Recommendation 9 of the *Social Justice Report 2025*:

> **Recommendation 1**
>
> The Australian Government should provide the Aboriginal and Torres Strait Islander Social Justice Commissioner with formal observer status within Closing the Gap Partnership structures.

27. This reform would strengthen public confidence in the National Agreement, create more direct channels for independent scrutiny of implementation and help ensure that Closing the Gap reforms are implemented in alignment with Aboriginal and Torres Strait Islander peoples' human rights.

Funding transparency and long-term investment

28. The Productivity Commission's review provides an important opportunity to examine whether public expenditure is effectively supporting the objectives of the National Agreement.

29. Aggregate measures of government expenditure on Aboriginal and Torres Strait Islander peoples often include both Indigenous-specific investment and an attributed share of mainstream service expenditure. They should not therefore be assumed to represent resources directed towards improving outcomes for First Peoples. This distinction is particularly important in areas such as justice, where expenditure associated with high rates of incarceration may increase overall expenditure attributed to First Peoples while reflecting the very inequality that Closing the Gap seeks to reduce.

30. Furthermore, as the *Social Justice Report 2025* illustrates, there is a tension between Priority Reform Two and the continued flow of funding to mainstream agencies and non-Indigenous service providers.[14] This practice, which is contrary to the advice and evidence provided by Aboriginal and Torres Strait Islander experts, makes it extremely difficult to calculate whether expenditure aligns with community priorities and is contributing positively to CTG outcomes.[15] Governments retain financial control with little oversight or transparency while subjecting Aboriginal Community-Controlled Organisations (ACCOs) to burdensome scrutiny and audits.[16] Acknowledging the importance of the community-controlled sector amounts to very little if ACCOs remain accountable for outcomes without the funding and resources needed to achieve them.

31. Moreover, the fragmented and short-term funding arrangements that characterise the 'target-based approach' further erode the capacity of ACCOs to support the realisation of First Peoples' rights and interests and the achievement of agreed outcomes under the National Agreement.[17] Sustained, long-term, needs-based funding of ACCO-designed and led initiatives is essential to advancing Aboriginal and Torres Strait Islander self-determination and ensuring communities can exercise genuine control over the policies and services that affect them.

32. Accountability for Closing the Gap expenditure must also extend to Commonwealth funding provided to states and territories. Large areas that determine progress against the Closing the Gap targets, including health, housing, education, justice and community services, depend upon expenditure and policy decisions made by state and territory governments. It is therefore not enough to improve transparency concerning Indigenous-specific expenditure or increase direct investment in the community-controlled sector. Governments

must also be accountable for ensuring that all Commonwealth funding provided through federal funding agreements is used consistently with the commitments and objectives of the National Agreement.

33. Federal funding agreements provide an important mechanism through which this accountability can be strengthened. Agreements involving expenditure relevant to Closing the Gap should expressly require states and territories to demonstrate how proposed expenditure will contribute to the Priority Reforms and relevant socio-economic targets and subsequently acquit that expenditure against those commitments. Funding should not be treated as contributing to Closing the Gap merely because it is spent within a portfolio connected to a Closing the Gap target. There must be scrutiny of whether the expenditure itself is capable of advancing the agreed outcome.

34. This is particularly important where government expenditure may work directly against a Closing the Gap target. For expenditure specifically associated with Closing the Gap, governments should provide sufficient transparency to demonstrate where relevant funding ultimately goes and whether it is advancing the Priority Reforms and socio-economic outcomes for which it is intended.

35. Funding arrangements should contain clear performance conditions, transparent acquittal and reporting requirements, and enforceable consequences where expenditure is inconsistent with agreed Closing the Gap purposes or conditions.

36. There are already federal funding arrangements in which Commonwealth payments are linked to milestones, performance reporting and evidence of delivery. For example, under the ACT's implementation arrangements for the National Skills Agreement, Commonwealth payments are conditional on performance reporting demonstrating that relevant milestones have been met and evidence of delivery being provided.[18]

37. We support a transition to more transparent, needs-based funding arrangements and reiterate Recommendations 10 and 11 of the *Social Justice Report 2025*:

Recommendation 2

The Australian Government should work in partnership with First Peoples to design and establish a national framework for expenditure on services for Indigenous communities. This should include replacing short-term funding with needs-based formulas that provide Aboriginal and Torres Strait Islander community-controlled organisations with direct, long-term, sustainable funding (including for monitoring and evaluation capacity).

Recommendation 3

The Australian Government should carry out transparent, independent financial and performance audits of Indigenous-specific and mainstream expenditure to ensure spending delivers on Closing the Gap commitments and community priorities.

38. Without greater visibility of how resources are allocated, used and acquitted across all levels of government, accountability under the National Agreement will remain incomplete. Governments should be able to demonstrate not simply that money has been spent in areas relevant to Closing the Gap, but that public expenditure is contributing to, rather than undermining, the outcomes governments have collectively committed to achieve.

Indigenous data sovereignty and accountability

39. Priority Reform Four recognises that Aboriginal and Torres Strait Islander peoples must have access to and control over data that affects their communities.

40. As Commissioner Kiss points out in the *Social Justice Report 2025*, when governments retain control over the collection, interpretation and dissemination of data 'they determine not only what is measured but whose perspectives count. This creates conditions in which Aboriginal and Torres Strait Islander peoples are subjected to monitoring and reporting, while governments themselves escape equivalent scrutiny.'[19]

41. Data sovereignty is not an abstract governance issue, but something that has very real consequences for accountability and outcomes. When decisions are made based on government-defined indicators rather than community-defined measures of success, for example, investment can be made in programs that are misaligned with community priorities. Both the *Social Justice Report 2025* and the Productivity Commission highlight the challenge of tracing Indigenous-specific expenditure that is funnelled through non-Indigenous mainstream agencies, making it difficult for communities to determine whether funding is improving outcomes.[20]

42. Stronger action is required to implement Indigenous data sovereignty principles across all jurisdictions. Data sharing arrangements should support Aboriginal and Torres Strait Islander peoples to monitor government performance, assess outcomes and drive community-led development.

43. We therefore reiterate Recommendation 12 from the *Social Justice Report 2025*:

> **Recommendation 4**
>
> The Australian Government should implement binding data-sharing and governance agreements across all levels of government that uphold Indigenous data sovereignty principles. The agreements should ensure accountability to Aboriginal and Torres Strait Islander communities through measures informed by, and agreed to by, communities themselves.

44. Greater transparency and stronger community ownership of data are essential foundations for accountability under the National Agreement.

Embedding human rights in Closing the Gap implementation

45. The National Agreement should be implemented through a rights-based framework grounded in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

46. The necessity for the Closing the Gap Priority Reforms exists because Aboriginal and Torres Strait Islander people do not enjoy rights equally and routinely have their rights denied and violated. Implementing the reforms is therefore not just a policy exercise. It is critical to Australia meeting its human rights obligations.

47. The Closing the Gap Priority Reforms are closely aligned with key UNDRIP principles, including self-determination, participation in decision-making, free, prior and informed consent, and Indigenous control over institutions serving Indigenous peoples. A rights-based approach would ensure that governments are assessed not only against whether they have taken action, but whether that action advances the rights of Aboriginal and Torres Strait Islander peoples. The Priority Reforms should not be seen merely as efforts by the government to improve outcomes but rather as a requirement of governments to respect, protect and fulfil human rights.

48. Accordingly, we reiterate Recommendation 13 of the *Social Justice Report 2025*:

> **Recommendation 5**
>
> Australian governments should incorporate into their Cabinet and Parliamentary Handbooks a requirement that all legislative, policy and program proposals align with Australia's human rights obligations to First Peoples, including the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

49. A rights-based approach would provide governments with clearer guidance regarding implementation and improve consistency across jurisdictions. Moreover, it would help Australia meet its obligation under Article 2(1) of the *International Covenant on Economic, Social and Cultural Rights (*ICESCR) requiring steps to be taken, by all appropriate means, towards the progressive and full realisation of rights.[21]

Addressing racism and transforming government institutions

50. Priority Reform Three seeks to transform government organisations so they are accountable, culturally safe and responsive to Aboriginal and Torres Strait Islander peoples.

51. Systemic racism remains a significant barrier to achieving equitable outcomes across health, education, justice, child protection and other sectors. This experience is supported by the findings of the *Informing the Agenda* project – the national listening tour that engaged over 1,600 Aboriginal and Torres Strait Islander people across the country on priority issues impacting their families and communities and laid the foundations for the *Social Justice Report 2025*. Of critical concern to all the communities engaged was 'the overwhelming pervasiveness of structural and systemic discrimination and interpersonal racism directed toward and experienced by First Peoples.'[22]

52. Systemic racism affects Aboriginal and Torres Strait Islander people every day across schools, hospitals, workplaces, sport, the media, courts and government services that habitually undermine and violate their rights. Racism is a powerful determinant of health and has shown to increase the risk of mental health problems and suicide among First Peoples.[23]

53. Progress towards Closing the Gap will remain constrained unless governments address racism within institutions and service systems. The Productivity Commission itself notes that transformation of the kind required by the National Agreement is not currently underpinned by a clear strategy involving the examination of systems, structures and operations required for true accountability and delivery of culturally safe services.[24]

54. We therefore reiterate Recommendation 14 of the *Social Justice Report 2025*:

> **Recommendation 6**
>
> The Australian Government should accept and implement the National Anti-Racism Framework (NARF).

55. Implementation of the Framework would provide an important mechanism for advancing Priority Reform Three and supporting institutional transformation.

56. Priority Reform Three already establishes a clear basis for holding governments accountable for transforming their own institutions. Government Parties have committed to systemic and structural transformation of mainstream government organisations, including identifying and eliminating institutional racism, embedding cultural safety, delivering services in partnership with

Aboriginal and Torres Strait Islander peoples and organisations, improving transparency in funding allocations, supporting Aboriginal and Torres Strait Islander cultures, and improving engagement. These are substantive commitments to change how governments operate, not simply aspirations about the outcomes governments seek to achieve.[25]

57. The National Agreement also requires Government Parties to report on this transformation. Clause 65 commits Government Parties to include in their annual reports information about how they are undertaking and meeting the transformation elements. This creates an existing accountability mechanism against which government performance can be assessed. However, reporting alone is insufficient if there is no systematic assessment of whether the information provided demonstrates that the commitments are actually being implemented. Priority Reform Three also contemplates independent mechanisms to support, monitor and publicly report on the transformation of mainstream agencies and institutions.[26]

58. We urge the Productivity Commission to undertake or recommend an independent audit of annual reports produced by all Australian governments under the National Agreement. The audit should assess the extent to which each jurisdiction has reported against, and demonstrated implementation of, each Priority Reform Three transformation element. It should identify gaps in reporting and implementation and establish a transparent baseline against which future progress can be measured. This would provide a concrete assessment of whether governments are meeting commitments that have applied since the commencement of the National Agreement, rather than relying principally on governments' own descriptions of progress.

Recommendation 7

The Productivity Commission should recommend an independent, cross-jurisdictional audit of government annual reporting under Priority Reform Three to assess whether Government Parties are meeting their commitments to transform government organisations, including the reporting commitment in clause 65 of the National Agreement. The audit should assess performance against each transformation element, identify gaps in implementation and reporting, and establish a transparent baseline for monitoring future progress.

Strengthening performance accountability

59. While the National Agreement establishes important reporting obligations, stronger performance accountability mechanisms are required. As Commissioner Kiss observes in the *Social Justice Report 2025*, while the term 'accountability' is often invoked, 'in practice it typically resembles accounting – a record of activities completed, dollars spent, or outputs delivered – rather than a genuine assessment of whether obligations have been met and outcomes achieved.'[27] As long as performance frameworks prioritise actions undertaken over the advancement of the Priority Reforms designed to uphold the rights of First Peoples, meaningful progress on the National Agreement will remain difficult to achieve.

60. We therefore reiterate Recommendation 15 of the *Social Justice Report 2025*:

> **Recommendation 8**
>
> The Australian Government should build rights-based performance requirements into funding agreements with states and territories. Performance indicators should align with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), implementation of the Closing the Gap priority reforms and progress against the Closing the Gap socio-economic targets. Jurisdictional performance reporting should be subject to rigorous independent monitoring and evaluation (in accordance with clause 67 of the National Agreement on Closing the Gap).

61. Stronger performance requirements would help ensure that accountability extends beyond reporting activity and focuses on meaningful implementation and outcomes.

Conclusion

62. While there have been important developments in the six years since the Agreement was signed, overall progress towards the structural transformation envisaged by the National Agreement remains inadequate. We submit that parties must focus on strengthening integrity, accountability and transparency across all elements of the National Agreement. Governments have made substantial commitments through the Agreement. The central challenge is now ensuring those commitments translate into concrete obligations, measurable institutional change and accountability for implementation.

63. The next phase should therefore focus not on creating further commitments without mechanisms for enforcement, but on ensuring governments are demonstrably accountable for those they have already made. Independent oversight, transparent and conditional funding, Indigenous data sovereignty, human rights compliance, action to address racism, independent scrutiny of Priority Reform implementation and rigorous performance monitoring should form part of a coherent national accountability framework.

64. We encourage the Productivity Commission to recommend reforms that embed these accountability mechanisms at the centre of Closing the Gap. Governments must be accountable not only for progress against socio-economic targets, but for transforming their own institutions, funding decisions and systems in accordance with the commitments they have made to Aboriginal and Torres Strait Islander peoples.

65. There are positive examples of how this can be achieved. The ACT's Public Sector (Closing the Gap) Legislation Amendment Act 2025, which commenced on 1 July 2026, represents an important development in embedding accountability for Closing the Gap within government. The legislation gives statutory effect to aspects of the ACT Government's commitments under the National Agreement by embedding Closing the Gap responsibilities within the duties of senior public servants and annual reporting obligations of public sector entities. This demonstrates that commitments under the National Agreement need not remain solely matters of policy or administrative practice. They can be translated into institutional responsibilities and formal accountability mechanisms.[28]

Endnotes

[1] Productivity Commission, *Closing the Gap Dashboard*, accessed 29 September 2026, <https://www.pc.gov.au/closing-the-gap-data/dashboard/>.

[2] Australian Human Rights Commission, *Social Justice Report 2005* (Report, 2005) ch 1.

[3] Productivity Commission, *Closing the Gap Dashboard*, accessed 29 September 2026, <https://www.pc.gov.au/closing-the-gap-data/dashboard/>.

[4] Productivity Commission, *Review of the National Agreement on Closing the Gap*, Study Report, vol 1 (January 2024) 7.

[5] Australian Human Rights Commission, *An Anti-Racism Framework: Voices of First Nations Peoples,* November 2024; Inquiry into racism, hate and violence directed at Aboriginal and Torres Strait Islander people, Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs, Parliament of Australia, adopted 4 March 2026.

[6] Dan Butler and Felicity Ogilve, '35 Years Ago a Royal Commission Investigated Indigenous Deaths in Custody. 630 People Have Died Since Then' (Web Page, 15 April 2026) SBS NITV <https://www.sbs.com.au/nitv/article/35-years-since-the-royal-commission-into-deaths-in-custody-hundreds-of-deaths-have-been-recorded/qyfj1co2q>.

[7] Paul Gregoire, 'First Ever Conviction of an Australian Police Officer Over Aboriginal Death in Custody' (Online, 3 December 2025) *Sydney Criminal Lawyers*.

[8] Australian Human Rights Commission, *A Fair and Just Future for First Peoples: Social Justice Report 2025* (Report, 2025) 400-1.

[9] Ibid., 280.

[10] Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd, 'QATSICPP Statement - Recent Legislation Introduced to Queensland Parliament re: Detaining Children in Adult Watch Houses and Correctional Facilities' (Media Statement, 25 August 2023) https://www.qatsicpp.com.au/2023/08/25/qatsicpp-statement-recent-legislation-introduced-to-queensland-parliament-re-detaining-children-in-adult-watch-houses-and-correctional-facilities/; North Australian Aboriginal Justice Agency, 'Legislative Changes to See the Gap Widen Even Further in the Northern Territory' (Media Release, 28 October 2024) https://www.naaja.org.au/legislative-changes-to-see-the-gap-widen-even-further-in-the-northern-territory/.

[11] Productivity Commission, *Review of the National Agreement on Closing the Gap: Supporting Paper* (Study Report No 111, July 2024) 242.

[12] Ibid.

[13] Jumbunna Institute for Indigenous Education and Research, *Closing the Gap Independent Aboriginal and Torres Strait Islander-Led Review* (Report, June 2025) 9.

[14] Australian Human Rights Commission, *A Fair and Just Future for First Peoples: Social Justice Report 2025* (Report, 2025) 287-8.

[15] Ibid., 287.

[16] Ibid., 292.

[17] Ibid., 287.

[18] Commonwealth of Australia and Australian Capital Territory, *Appendix A: Bilateral Implementation Plan – National Skills Agreement* (2025) 'Reporting and Payments', paras 1-4.

[19] Australian Human Rights Commission, *A Fair and Just Future for First Peoples: Social Justice Report 2025* (Report, 2025), 294.

[20] Ibid., 287; Productivity Commission, *Review of the National Agreement on Closing the Gap: Supporting Paper* (Study Report No 111, July 2024) 93-6

[21] *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) art 2(1).

[22] Australian Human Rights Commission, *A Fair and Just Future for First Peoples: Social Justice Report 2025* (Report, 2025) 17.

[23] Truong, M and Moore, E, *Racism and Indigenous Wellbeing, Mental Health and Suicide* (Australian Institute of Health and Welfare, 2023); Calma, T, Hirvonen, J and Bray, JR, *Relationship between Systemic Anti-Indigenous Racism and Social and Emotional Wellbeing and Mental Health* (Australian Institute of Health and Welfare, 2025).

[24] Productivity Commission, *Review of the National Agreement on Closing the Gap*, Study Report, vol 1 (January 2024) 56.

[25] Coalition of Peaks and Australian Governments, *National Agreement on Closing the Gap* (July 2020) cls 59, 60-65.

[26] Ibid cls 65, 67.

[27] Australian Human Rights Commission, *A Fair and Just Future for First Peoples: Social Justice Report 2025* (Report, 2025) 290.

[28] Giovanni Torre, 'First of its kind in Australia: ACT's new Closing the Gap legislation comes into effect', *National Indigenous Times* (online, 1 July 2026); Australian Capital Territory, *Public Sector (Closing the Gap) Legislation Amendment Bill 2025: Explanatory Statement* (2025).