

SUBMISSION TO THE SOCIAL JUSTICE COMMISSIONER: INFORMING THE AGENDA

September 2024

Contents

About SNAICC.....	3
Recommendations	4
Introduction.....	6
National Commissioner for Aboriginal and Torres Strait Islander Children and Young People	8
Strengthening Australia’s human rights framework	9
The National Agreement on Closing the Gap.....	11
Strengthening the community controlled sector	13
Shared decision-making.....	14
Amplifying, complementing and holding governments to account for existing child and family reform commitments.....	16
Safe and Supported	16
Conclusion	20

About SNAICC

SNAICC is the national non-government peak body for Aboriginal and Torres Strait Islander children. We work for the fulfilment of the rights of our children, to ensure their safety, development, and wellbeing.

SNAICC has a dynamic membership of Aboriginal and Torres Strait Islander community-based child care agencies, Multi-functional Aboriginal Children's Services, crèches, long day care child care services, pre-schools, early childhood education services, early childhood support organisations, family support services, foster care agencies, family reunification services, family group homes, services for young people at risk, community groups and voluntary associations, government agencies and individual supporters.

Since 1981, SNAICC has been a passionate national voice representing the interests of Aboriginal and Torres Strait Islander children and families. SNAICC champions the principles of community control and self-determination as the means for sustained improvements for children and families, which has been at the heart of SNAICC's work — whether on child protection and wellbeing or early childhood education and development. Today, SNAICC is the national peak body for Aboriginal and Torres Strait Islander children and the sector supporting these children. Our work comprises policy, advocacy, and sector development. We also work with non-Indigenous services alongside Commonwealth and State Governments to improve how agencies design and deliver supports and services for Aboriginal and Torres Strait Islander children and families.

As the national peak body for Aboriginal and Torres Strait Islander children, SNAICC consults with its member organisations and Aboriginal and Torres Strait Islander leaders to ensure the experiences, needs and aspirations of our leaders, our sector and ultimately, our children and families are the foundation for our work.

Recommendations

SNAICC's submission includes nine (9) recommendations designed to ensure that the rights, wellbeing and aspirations of Aboriginal and Torres Strait Islander children and families are brought to life in the Social Justice Commissioner's forward agenda.

These recommendations aim to ensure that the Social Justice Commissioner's role amplifies and strengthens the decades of community and sector advocacy to drive meaningful policy, system and sector reform to improve outcomes for Aboriginal and Torres Strait Islander children, young people and families.

SNAICC recommends the Social Justice Commissioner's agenda should:

1. Ensure the rights, wellbeing and aspirations of Aboriginal and Torres Strait Islander children are specifically considered and reflected in activities to progress all elements of the Social Justice Commissioner agenda.
2. Support and advocate for the establishment of a fully empowered, resourced and legislated National Commissioner for Aboriginal and Torres Strait Islander Children and Young People through shared decision-making.
3. Once established, work with the appointed National Commissioner for Aboriginal and Torres Strait Islander Children and Young People to respond to issues impacting Aboriginal and Torres Strait Islander children, including holding governments to account for upholding their human rights.
4. Support and advocate for the implementation of the recommendations of the Inquiry into Australia's Human Rights Framework¹ to establish a federal Human Rights Act as a mechanism for progressing the realisation of the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations Convention on the Rights of the Child, and the United Nations Convention on the Rights of Persons with Disabilities.
5. Advocate for all Australian Governments to deliver on their commitments under the National Agreement, including holding them to account in the delivery of these commitments.
6. In line with the National Agreement, prioritise the development and strengthening of the Aboriginal and Torres Strait Islander community-controlled organisations (ACCO) sector to provide accessible and culturally safe services to Aboriginal and Torres Strait Islander communities. This should include working collaboratively with ACCO peak bodies to identify appropriate approaches.
7. Engage with the Policy Partnerships established under the National Agreement and other key shared decision-making forums to support and progress best practice in genuine partnership and shared decision-making.

¹ Parliament of Australia 2024, 'Inquiry into Australia's Human Rights Framework: Report'. Retrieved from: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Report.

8. Ensure activities under the strategic agenda align with and complement existing government actions and commitments including, but not limited to, *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031*.
9. Ensure activities under the strategic agenda align with, complement and amplify SNAICC's early childhood policy positions and advocacy.

Introduction

For 40 years SNAICC has advocated for the rights of Aboriginal and Torres Strait Islander children. We welcome the opportunity to provide a submission to inform the shaping of the Social Justice Commissioner's forward agenda.

SNAICC is highly supportive of the six high-level goals outlined by the Commissioner:

1. To promote the implementation of the United Nations Declaration on the Rights of Indigenous Peoples
2. To provide advocacy and guidance on the implementation of the three pillars of the Uluru Statement from the Heart—Voice, Treaty, Truth
3. To increase Access to Justice for First Nations communities
4. To support the realisation of First Nations health equality
5. To provide advocacy and guidance to progress Land Justice Reform
6. To build the capacity of the First Nations Human Rights Network

The rights, needs and aspirations of Aboriginal and Torres Strait Islander children are critical to not only their wellbeing, but also to building strong and connected culture and communities.

SNAICC's submission focuses on ensuring Aboriginal and Torres Strait Islander children remain visible in the Social Justice Commissioner's agenda through targeted activity that complements existing work across government and the community controlled sector.

Aboriginal and Torres Strait Islander children's rights include those owed to all children as well as their unique rights as Indigenous Peoples. These rights are drawn from international human rights frameworks.

The rights of all children are set out in the United Nations Convention on the Rights of the Child (UNCRC) and are specific to children, their contexts, and needs. The convention contains 54 articles and is based on four core principles:

- Non-discrimination
- Devotion to the best interests of the child
- The right to life, survival and development and
- Respect for the views of the child²

The UNCRC also contains articles that are especially important to Aboriginal and Torres Strait Islander children such as the right to enjoy their culture, and to learn and use the language and customs of their Indigenous Nations. Aboriginal and Torres Strait Islander children also have rights under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The articles under UNDRIP include rights to lands, to maintain language and culture and participate in decision making.

² UNICEF 2019, 'Four principles of the Convention on the Rights of the Child'. Retrieved from: [Four principles of the Convention on the Rights of the Child | UNICEF](#)

The United Nations Committee on the Rights of the Child has provided important guidance on how it should be implemented to protect the rights of Indigenous children. This guidance reaffirms that the active protection of Indigenous children's rights requires dedicated attention and the application of special measures. In its General Comment 11, the guidance of the Committee included that:

- Special measures should be taken through legislation and policy in consultation with Indigenous communities to protect the rights of Indigenous children;
- Legislation should apply the principle of non-discrimination to protect Indigenous children against discrimination
- Special measures should be applied to ensure Indigenous children *“have access to culturally appropriate services in the areas of health, nutrition, education, recreation and sports, social services, housing, sanitation and juvenile justice”*
- The best interests of the child is a collective and individual right, and its application to Indigenous children requires consideration of collective cultural rights
- The best interests of an Indigenous child should be determined through the participation of the child's Indigenous community
- Special strategies should be used to ensure the participation of Indigenous children in matters affecting them, including ensuring rights to representation and culturally appropriate interpretation
- Government should *“ensure effective measures are implemented to safeguard the integrity of Indigenous families and communities by assisting them in their child-rearing responsibilities”*

The Committee also provided guidance on special measures necessary to ensure Indigenous children's rights are protected in areas such as health, education, and juvenile justice.³

Even when there are policies and legislation in place designed to improve life outcomes or protect children's rights, Aboriginal and Torres Strait Islander children rarely enjoy these equitably. We need only to look at the shocking rates of overrepresentation in the child protection and youth justice systems as evidence of the systemic and institutional neglect of Aboriginal and Torres Strait Islander children's rights and wellbeing at both federal and state/territory levels.

There is a need for the Social Justice Commissioner's agenda and activities to understand and reflect the unique rights of Aboriginal and Torres Strait Islander children and ensure that they align with the views and aspirations of Aboriginal and Torres Strait Islander children and young people. This can be supported through engagement with SNAICC as the National Peak Body for Aboriginal and Torres Strait Islander children and families, jurisdictional ACCO peaks that represent the child and family sector, jurisdictional Aboriginal and Torres Strait Islander Children's Commissioners and the soon to be established National Commissioner for Aboriginal and Torres Strait Islander Children and Young People.

³ United Nations Committee on the Rights of the Child 2009, 'Indigenous children and their rights under the convention', no. 11. Retrieved from: https://www2.ohchr.org/english/bodies/crc/docs/gc.11_indigenous_new.pdf

Recommendation One: Ensure the rights, wellbeing and aspirations of Aboriginal and Torres Strait Islander children are specifically considered and reflected in activities to progress all elements of the Social Justice Commissioner’s agenda.

National Commissioner for Aboriginal and Torres Strait Islander Children and Young People

In February 2024, Prime Minister Anthony Albanese announced the establishment of a National Commissioner for Aboriginal and Torres Strait Islander Children and Young People.⁴ The Prime Minister’s announcement was a response to a campaign built on many years of community advocacy, led by SNAICC and the Aboriginal and Torres Strait Islander Safe and Supported Leadership Group, to establish a fully empowered, fully resourced and fully legislated National Commissioner for Aboriginal and Torres Strait Islander Children and Young People.⁵ The National Commissioner for Aboriginal and Torres Strait Islander Children and Young People is a community-led solution to the issues facing Aboriginal and Torres Strait Islander children and young people.

The National Commissioner for Aboriginal and Torres Strait Islander Children and Young People will act as a dedicated role focusing on issues impacting Aboriginal and Torres Strait Islander children and young people, including ensuring their human rights are protected and upheld. The National Commissioner for Aboriginal and Torres Strait Islander Children and Young People will share many goals and values with the Social Justice Commissioner, including the promotion of the self-determination, rights, safety, and wellbeing of Aboriginal and Torres Strait Islander people. As such, there is a significant opportunity for collaboration between both Commissioners to align their work in ways that elevate community voices and protect the rights of Aboriginal and Torres Strait Islander peoples.

The National Commissioner for Aboriginal and Torres Strait Islander Children and Young People (including any provisional appointment) must be designed, implemented, legislated, and appointed through shared decision-making with Aboriginal and Torres Strait Islander leaders, organisations, and representatives. SNAICC would welcome any opportunities for the Social Justice Commissioner to advocate for embedding shared decision-making in the establishment, resourcing and legislation of this role.

The National Commissioner for Aboriginal and Torres Strait Islander Children and Young People must be fully empowered to hold the Australian Government accountable for the realisation of

⁴ Grattan 2024, ‘New commissioner will focus on vexed issue of Indigenous children in out-of-home care’, *The Conversation*. Retrieved from: <https://theconversation.com/new-commissioner-will-focus-on-vexed-issue-of-indigenous-children-in-out-of-home-care-223444>.

⁵ Commission for Children and Young People 2024, ‘Joint statement on appointment of a National Commissioner for Aboriginal and Torres Strait Islander children and young people’. Retrieved from: <https://ccyp.vic.gov.au/news/appointment-of-a-national-commissioner-for-aboriginal-and-torres-strait-islander-children/>.

Aboriginal and Torres Strait Islander children's rights. The role should also fit within an existing structure of accountability, equality, and rights-based mechanisms that are currently working to protect and advance the rights and wellbeing of Aboriginal and Torres Strait Islander people. We welcome the Social Justice Commissioner's intention to work with the National Commissioner for Aboriginal and Torres Strait Islander Children and Young People to reframe issues towards strengths-based approaches and note the opportunity to amplify the interconnected work of their portfolios.

Accountability and oversight mechanisms are most effective when their agendas and priorities align, creating opportunities for collective advocacy. As such, working in tandem with the soon-to-be established National Commissioner for Aboriginal and Torres Strait Islander Children and Young People, as well as Aboriginal and Torres Strait Islander Children's Commissioners at state and territory levels, presents a significant opportunity for the Social Justice Commissioner to hold governments accountable for the ways in which they fail our children.

Recommendation Two: Support and advocate for the establishment of a fully empowered, resourced and legislated National Commissioner for Aboriginal and Torres Strait Islander Children and Young People through shared decision-making.

Recommendation Three: Once established, work with the appointed National Commissioner for Aboriginal and Torres Strait Islander Children and Young People to respond to issues impacting Aboriginal and Torres Strait Islander children, including holding governments to account for upholding their human rights.

Strengthening Australia's human rights framework

All Australian governments have an obligation to ensure that all Australians have full enjoyment of their rights. As recognised under the Social Justice Commissioner's six high-level goals, governments are not currently being held to account for their human rights responsibilities. The priority to progress a national plan for the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) will be critical for supporting accountability for Aboriginal and Torres Strait Islander peoples. SNAICC urges the Social Justice Commissioner to reflect the rights of Aboriginal and Torres Strait Islander children and young people in activities under this priority.

As the Australian Human Rights Commission has highlighted since its establishment, the Australian Government has a critical role to play in protecting children's rights – from creating a culture where these rights are valued, to ensuring that all children and families have the resources, supports and services they need to enjoy equitable realisation of their rights (including rights to housing, health, safety, culture, education and care). Aboriginal and Torres Strait Islander children, on average, experience greater vulnerability than non-Indigenous children, as demonstrated by their over-representation in the child protection and youth justice systems, in addition to worse health and education outcomes. This greater vulnerability stems from the continuing impacts of

colonisation, which have caused generations of harm and trauma for Aboriginal and Torres Strait Islander peoples. Aboriginal and Torres Strait Islander children experience the vulnerabilities that come from being children *alongside* the vulnerabilities created by colonisation, which compound across the social determinants of health and wellbeing. It is therefore critical to protect and uphold Aboriginal and Torres Strait Islander children's rights to enable healing from the ongoing legacy of colonisation and to support the continuation of the world's longest-surviving cultures.

A key mechanism for realising the rights set out in the UNDRIP, and for building broader human rights accountability structures in Australia, is a federal Human Rights Act. SNAICC's submission to the recent Parliamentary Inquiry into Australia's Human Rights Framework (the Inquiry) called for the enactment of a Human Rights Act that incorporates all rights under the UNDRIP, the UNCRC and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).⁶ SNAICC also highlighted the need for this legislation to be developed in consultation with Aboriginal and Torres Strait Islander children and young people. The Inquiry's final report recommended the establishment of a Human Rights Act that gives effect to the UNDRIP and other relevant United Nations instruments, and which is developed in consultation with Aboriginal and Torres Strait Islander peoples, children's groups, and people with disability.⁷

The outcomes of the Inquiry create additional opportunities for the Social Justice Commissioner, SNAICC, and other Aboriginal and Torres Strait Islander leaders and peak bodies to progress human rights protections as a priority. The Inquiry clearly states that the existing Human Rights Framework needs significant improvement, and that these improvements need to be developed in consultation with communities, including human rights education initiatives. The planned work of the Social Justice Commissioner to build public accountability and community capacity to advocate for the rights of Aboriginal and Torres Strait Islander peoples has significant intersections with the Inquiry's recommendations, strengthening the evidence base and the case for change. Having recommended the establishment of a Human Rights Act developed through consultation with our communities in our submission, SNAICC will continue to advocate for the implementation of the Inquiry's recommendations and the prioritisation of Aboriginal and Torres Strait Islander children's rights in these changing and emerging initiatives. We would welcome the opportunity to work with the Social Justice Commissioner on progressing this work.

Recommendation Four: Support and advocate for the implementation of the recommendation of the Inquiry into Australia's Human Rights Framework to establish a Federal Human Rights Act, as a mechanism for progressing the realisation of the United Nations Declaration on the Rights of Indigenous Peoples, the United Nations Convention on the Rights of the Child, and the United Nations Convention of the Rights of Persons with Disabilities.

⁶ SNAICC 2023, 'Submission to the Inquiry into Australia's Human Rights Framework'. See more: <https://www.aph.gov.au/DocumentStore.ashx?id=2cbe9864-e7b2-48c0-b2b8-8895e0a460bd&subId=744758>.

⁷ Parliament of Australia 2024, 'Inquiry into Australia's Human Rights Framework: List of Recommendations'. Retrieved from: https://www.aph.gov.au/Parliamentary_Business/Committees/joint/Human_Rights/HumanRightsFramework/Report/List_of_recommendations.

The National Agreement on Closing the Gap

In July 2020, the Australian Government, all State and Territory Governments, and the Coalition of Peaks signed the National Agreement on Closing the Gap (National Agreement). The National Agreement seeks to overcome the entrenched inequalities faced by Aboriginal and Torres Strait Islander peoples, pushing for equality in life outcomes for all Australians.

The National Agreement reflects a wide range of core rights for Aboriginal and Torres Strait Islander people and children. The 17 socio-economic targets⁸ under the National Agreement are expressions of Aboriginal and Torres Strait Islander human rights – namely rights to health, education, freedom from discrimination, economic participation, housing, safety, social and emotional wellbeing, culture, land, languages, and self-determination. The Productivity Commission's most recent Annual Data Compilation Report, published in July 2024, has shown that only four of the 17 targets are on track, and that five are currently stalled or going backwards.⁹ The targets that are worsening are particularly concerning for children, with over-representation in out-of-home care increasing and proportion of children developmentally on track decreasing, while over-representation in youth detention has remained stagnant.

The National Agreement is built around four Priority Reforms to change the way governments work with Aboriginal and Torres Strait Islander communities, organisations, and people across the country. The Priority Reforms must inform all government action including legislation, policy, and practice, whether these actions are targeted for Aboriginal and Torres Strait Islander peoples or impact them as part of the general population. Self-determination, equality, and capability-building are at the core of the Priority Reforms, which lay the groundwork for what needs to change at the highest level to promote meaningful change for Aboriginal and Torres Strait Islander peoples and communities. The Priority Reforms are as follows:

- 1. Formal Partnerships and Shared Decision Making** – Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements.
- 2. Building the Community-Controlled Sector** – There is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander people across the country.
- 3. Transforming Government Organisations** – Governments, their organisations and their institutions are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund.
- 4. Shared Access to Data and Information at a Regional Level** – Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and

⁸ Australian Government, 'Closing the Gap Targets and Outcomes'. Retrieved from: <https://www.closingthegap.gov.au/national-agreement/targets>.

⁹ Productivity Commission 2024, 'Closing the Gap Annual Data Compilation Report'. Retrieved from: <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/closing-the-gap-annual-data-compilation-july2024.pdf>.

information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development.¹⁰

As clearly stated in the Productivity Commission's Review of the National Agreement on Closing the Gap, implementation of the Priority Reforms has been ad hoc, and discrete instances of good practice are not enough to realise the overarching goals of the National Agreement.¹¹ Without government follow-through on commitments, or integration across policy systems and mechanisms, the National Agreement cannot achieve what it set out to.

The Social Justice Commissioner's commitment to guiding the implementation of the three pillars of the Uluru Statement from the Heart (Voice, Treaty, Truth) intersects with the core of the National Agreement – the recognition that inequality, trauma, and marginalisation is deeply entrenched in Australia and a fundamental and national shift in relationships and policymaking is needed to make meaningful impact. Priority Reforms One and Three commit Australian governments to truth-telling and genuine partnership in transforming their ways of working towards self-determination. Under Priority Reform Three, governments are required to engage in active efforts to “identify their history with Aboriginal and Torres Strait Islander people and facilitate truth-telling to enable reconciliation and active, ongoing healing”.¹² The Productivity Commission's Review found that governments have been inconsistent in their approach to shared decision-making and that their pursuit of piecemeal change is not enough to address cultural safety and institutional racism or achieve the strategic transformation required to progress the Priority Reforms as interdependent elements.¹³ Governments are not delivering on their commitments to the Priority Reforms, and until they do, any attempts to engage in national approaches to truth-telling, justice, and healing are likely to face similar implementation challenges.

As the Commissioner's high-level goals reflect, realising health, economic, and social equality for Aboriginal and Torres Strait Islander people requires systems transformation. Government systems must change in order to support self-determination and achieve better outcomes, but it is clear that governments are not understanding or adequately responding to the scale of change that is required. The National Agreement and the Productivity Commission's Review clearly articulate governments' failure to date in transforming their ways of working to address systemic racism and disadvantage. Utilising the mechanism of the National Agreement to frame advocacy, the Social Justice Commissioner's agenda could increase accountability pressure on governments to commit in full to the achievement of the Priority Reforms and the Commissioner's related goals. Governments have agreed to transformation but are not putting it into practice, and coordinating efforts across statutory, advocacy, and decision-making bodies is critical for holding government organisations to account for falling short on their established commitments.

¹⁰ Australian Government, 'Closing the Gap Priority Reforms'. Retrieved from: <https://www.closingthegap.gov.au/national-agreement/priority-reforms>.

¹¹ Productivity Commission 2024, 'Review of the National Agreement on Closing the Gap: Study Report'. Retrieved from: <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report/closing-the-gap-review-report.pdf>.

¹² Australian Government 2020, 'National Agreement on Closing the Gap', p. 12.

¹³ Productivity Commission 2024, 'Review of the National Agreement on Closing the Gap: Study Report'.

Recommendation Five: Advocate for all Australian Governments to deliver on their commitments under the National Agreement on Closing the Gap, including holding them to account in the delivery of these commitments.

Strengthening the community controlled sector

Since the early 1970s, Aboriginal and Torres Strait Islander community controlled organisations (ACCOs) have been providing culturally appropriate and holistic health and wellbeing services to children and families. ACCOs deliver culturally safe, wraparound supports for families and are places for cultural and community connection and care. The trusted, community-centred, and culturally responsive support ACCOs provide for children and families cannot be replicated in non-Indigenous service systems, and without appropriately resourced ACCOs Aboriginal and Torres Strait Islander children will continue to experience barriers to accessing the universal services that are fundamental to full enjoyment of their rights.

The National Agreement makes clear that strengthening the community controlled sector is a priority for supporting the wellbeing, rights and self-determination of Aboriginal and Torres Strait Islander people.

In Australia and internationally, evidence has clearly demonstrated that community controlled services provide more integrated, culturally safe and accessible supports that promote better outcomes for individuals, families, and communities.¹⁴ The Social Justice Commissioner's goal to highlight Aboriginal and Torres Strait Islander peoples' capacity to lead in solutions to systemic inequalities speaks to the strengths of ACCOs, and to the critical need for responses to issues impacting Aboriginal and Torres Strait Islander communities to be owned and led by community. At the systems and the local levels, Aboriginal and Torres Strait Islander leadership is the key.

The connection and accountability that ACCOs have to community makes them uniquely placed to identify the services and supports that are most needed and will have the greatest impact on a local level. Relationships are central to Aboriginal and Torres Strait Islander cultural frameworks, and ACCO services foster connection with families, culture, Country, and local Aboriginal and Torres Strait Islander communities including Elders and other local community controlled organisations. As the Social Justice Commissioner's agenda recognises, mainstream systems are failing Aboriginal and Torres Strait Islander people across multiple aspects of health, justice, wellbeing, and human rights. Governments and public service systems do not have the capability to deliver the culturally safe and responsive supports ACCOs excel in, and full accessibility of these essential services requires a strong ACCO sector to provide care and support alongside a transformed mainstream service system.

¹⁴ SNAICC 2023, 'Stronger ACCOs, Stronger Families Final Report'. See more: <https://www.snaicc.org.au/wp-content/uploads/2023/05/SNAICC-Stronger-ACCOs-Stronger-Families-report-2022.pdf>.

SNAICC encourages the Social Justice Commissioner to continue this focus on the community controlled sector by working collaboratively with ACCOs and ACCO peak bodies across relevant sectors to understand and amplify their sector strengthening advocacy. This includes holding governments to account for their commitments to Priority Reform Two in the National Agreement – building the community controlled sector.

Recommendation Six: In line with the National Agreement, prioritise the development and strengthening of the Aboriginal and Torres Strait Islander community-controlled organisations (ACCO) sector to provide accessible and culturally safe services to Aboriginal and Torres Strait Islander communities. This should include working collaboratively with ACCO peak bodies to identify appropriate approaches.

Shared decision-making

Through the National Agreement, all Australian Governments have committed to working in genuine partnership with Aboriginal and Torres Strait Islander people and communities, including through shared decision-making. The Policy Partnerships are a core component of Priority Reform One, which commits to governments sharing decision-making authority with Aboriginal and Torres Strait Islander people.

The National Agreement sets out the essential elements of a strong partnership, including:

- Accountable and representative membership.
- Decision-making is transparent and Aboriginal and Torres Strait Islander voices have equal weight.
- Self-determination is supported and all members have equitable access to information and data.¹⁵

Policy Partnerships were established in five key priority areas: justice, social and emotional wellbeing, housing, early childhood care and development, and Aboriginal and Torres Strait Islander languages. SNAICC co-chairs and acts as the co-secretariat for the Early Childhood Care and Development Policy Partnership (ECCDPP), working in partnership with the Commonwealth Department of Education.

The ECCDPP brings together government members from the early childhood education and child protection portfolios in genuine partnership with Aboriginal and Torres Strait Islander representatives to share in improving outcomes for Aboriginal and Torres Strait Islander children. The Partnership's purpose is to see Aboriginal and Torres Strait Islander children thrive in their early years through identifying and actioning priority policy reforms, commissioning research, and progressing initiatives under the National Agreement.

¹⁵ Australian Government 2020, 'National Agreement on Closing the Gap', p. 6.

Over the lifespan of the ECCDPP we have seen how shared decision-making drives fundamental shifts in the way governments work with Aboriginal and Torres Strait Islander people. The ECCDPP has already seen significant progress in creating a productive environment where members can have robust conversations and work together towards shared priorities and impact. The government commitment to establish the National Commissioner for Aboriginal and Torres Strait Islander Children and Young People was a key achievement under the ECCDPP's annual priorities and an example of how the Policy Partnerships can build on community and sector advocacy to galvanise action.

Each of the Policy Partnerships holds extensive expertise and authority in their respective policy area/s, and their shared decision-making mechanisms embed community leadership in work planning and initiatives. The Partnerships, in addition to the relevant community leaders, peak bodies, and ACCOs, should be a priority for engagement when any government body, non-government organisation, or other decision-maker is working in or across their portfolios. The Social Justice Commissioner's goals have significant intersections with the subject matters of the Policy Partnerships, and successful shared decision-making is critical for advancing self-determination and systems transformation.

The Policy Partnerships are not the only shared decision-making forums where these new ways of working are being tested and developed. *Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031* has brought together the Safe and Supported Aboriginal and Torres Strait Islander Leadership Group and the Community Services Ministers as the Safe and Supported Shared Decision-Making Committee, affirming commitments to shared decision-making and alignment with Closing the Gap.¹⁶ Similar to the Policy and Place-based Partnerships, the Shared Decision-Making Committee operates under a formal partnership agreement and seeks to progress policy and program priorities relevant to the Safe and Supported framework in genuine partnership.

SNAICC's work with the ECCDPP and Safe and Supported Shared Decision-Making Committee has illustrated the importance of authentic shared decision-making for achieving meaningful outcomes for our children and families. The findings of the Productivity Commission and the experiences of our Aboriginal and Torres Strait Islander leaders remind us that shared decision-making is not without its challenges and is not yet being fully realised in practice, but it remains a landmark commitment under Closing the Gap and a critical step towards self-determination when it is successful. In the current landscape, shared decision-making is the essential mechanism for Aboriginal and Torres Strait Islander leadership in policy design and implementation.

In addition, each Policy Partnership has a set of priorities they are progressing to drive policy reform to improve outcomes for Aboriginal and Torres Strait Islander people. For example, the

¹⁶ The Hon Amanda Rishworth MP 2024, 'Safe and Supported Shared Decision-Making Committee'. Retrieved from: <https://ministers.dss.gov.au/media-releases/14081>.

ECCDPP has 16 priorities that focus on system reform to improve outcomes for Aboriginal and Torres Strait Islander children that cut across all aspects of a child's life.

It is important that the Social Justice Commissioner's agenda reflects and amplifies these priorities and includes complementary actions and activities. The co-chairs of the ECCDPP would welcome the opportunity to meet with the Social Justice Commissioner to discuss shared priority setting in more detail and ways to collaborate

Recommendation Seven: Engage with the Policy Partnerships established under the National Agreement and other key shared decision-making forums to support and progress best practice in genuine partnership and shared decision-making.

Amplifying, complementing and holding governments to account for existing child and family reform commitments

Through a range of strategies, policies and frameworks, Australian Governments have made many commitments to improve the safety and wellbeing of Aboriginal and Torres Strait Islander children and families. It is important that the work of the Social Justice Commissioner complements these initiatives and holds governments to account for delivering on them.

Safe and Supported

Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031 sets out to improve the lives of children, young people and families experiencing disadvantage or who are vulnerable to abuse and neglect through systems collaboration and reform. With its accompanying Action Plans, it forms a key initiative supporting national efforts to make progress under Target 12¹⁷ of the National Agreement, which aims to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% over 10-years (by 2031).

This Framework recognises the rights of children to “grow up safe, connected and supported in their family, community and culture”¹⁸ and puts forward agreed priorities, goals, principles and focus areas to improve the safety and wellbeing of all children in Australia. Under Safe and Supported, collaboration between governments, communities, and non-government organisations is the key to primary prevention and addressing the intergenerational impacts of abuse and neglect. The Framework refers specifically to its intention and obligation to support the implementation of the National Agreement and be accountable to its existing governance arrangements.

¹⁷ Productivity Commission 2024, 'Socio-economic outcome area 12'. Retrieved from: <https://www.pc.gov.au/closing-the-gap-data/dashboard/se/outcome-area12>.

¹⁸ Australian Government 2021, 'Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031', p. 6. Retrieved from: https://www.dss.gov.au/sites/default/files/documents/12_2021/dess5016-national-framework-protecting-childrenaccessible.pdf.

In alignment with relevant United Nations instruments, Safe and Supported's priority groups and focus areas engage closely with the unique rights of children, Aboriginal and Torres Strait Islander children, and children with disability. Safe and Supported is built on the following principles:

- Access to quality universal and targeted services designed to improve outcomes for children, young people and families.
- Excellence in practice and policy development, based on evidence, data and information sharing.
- Listening and responding to the voices and views of children and young people, and the views of those who care for them.
- Clear responsibilities and strong monitoring, evaluation and achievements of outcomes.
- Trauma-informed, culturally safe, and inclusive policies and actions.
- Embedding the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle — Prevention, Partnership, Placement, Participation and Connection.¹⁹

The ten-year Framework is being operationalised by two sets of Action Plans (2023–26 and 2027–2031), driven in partnership with Aboriginal and Torres Strait Islander leaders and communities under the Shared Decision-Making Committee's Partnership Agreement, with one Action Plan for each time period being specifically focused on Aboriginal and Torres Strait Islander children. The Aboriginal and Torres Strait Islander First Action Plan was developed in partnership with SNAICC, the Aboriginal and Torres Strait Islander Leadership Group, governments, and the National Coalition on Child Safety and Wellbeing Steering Group.²⁰

Under the first Aboriginal and Torres Strait Islander Action Plan, important priorities that were developed and agreed in partnership with Aboriginal and Torres Strait Islander leaders are being progressed under Safe and Supported, including for example:

- The transfer of statutory authority in child protection to ACCOs
- Increased investment in the ACCO child and families sector with a focus on supporting families to prevent child protection intervention
- The design and establishment of a National Centre for Excellence in Aboriginal and Torres Strait Islander Family Support to advance the Aboriginal and Torres Strait Islander evidence base for supporting families, and progress a data sovereignty agenda, and
- The development of national standards for active efforts to implement the 5 elements of the Aboriginal and Torres Strait Islander Child Placement Principle.

The Safe and Supported agenda has the potential to be transformative for Aboriginal and Torres Strait Islander children, but it relies on major reforms to government processes, systems and services, which have been slow to progress and have lacked adequate investment and focus from governments. The Social Justice Commissioner could play a key role alongside peaks and other

¹⁹ Ibid, p. 8.

²⁰ Australian Government 2022, 'Aboriginal and Torres Strait Islander First Action Plan 2023-2026 under Safe and Supported: The National Framework for Protecting Australia's Children 2021-2031'. Retrieved from: https://www.dss.gov.au/sites/default/files/documents/01_2023/final_aboriginal_and_torres_strait_islander_first_action_plan.pdf.

commissioners in calling out the lack of progress and promoting government accountability for the implementation of Safe and Supported's actions. We recommend that the Social Justice Commissioner meets with the Aboriginal and Torres Strait Islander Leadership Group for Safe and Supported to discuss opportunities for collaboration or shared priority setting.

Recommendation Eight: Ensure activities under the strategic agenda align with and complement existing government actions and commitments designed through shared decision-making including, but not limited to, *Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031*.

Alignment with early childhood advocacy

The early years are a critical period in a child's development, creating the foundations for lifelong learning and wellbeing. Participation in quality early learning environments positively impacts a child's life outcomes and supports them to realise their full potential. Access to culturally responsive, high quality early childhood education provides Aboriginal and Torres Strait Islander children the best start in life, supporting progress towards all Closing the Gap outcomes.

ACCOs play a critical role in providing high quality, culturally responsive integrated early years services to Aboriginal and Torres Strait Islander children and families. The connection and accountability that ACCOs have to community makes them uniquely placed to identify the services and supports that are most needed or wanted on a local level.²¹ When a need in the community is identified, ACCOs respond to the need by connecting services together to provide wraparound support that prioritises cultural care and connection.

SNAICC has long advocated for the reform of the early childhood care and development sector, and there is an opportunity for the Social Justice Commissioner to align her agenda to support these policy and advocacy positions.

Long-standing advocacy asks from SNAICC include calling for the Child Care Subsidy Activity Test to be abolished, a dedicated funding model for ACCO early years services, investment in place-based responses and investment in the Aboriginal and Torres Strait Islander early years workforce.

The Activity Test is a measure used by Services Australia to determine the level of subsidised care for the Child Care Subsidy. Eligibility to receive the Child Care Subsidy depends on a person's hours of [recognised activities](#) and the type of activity. Recognised activities include but are not limited to: paid work, paid and unpaid leave, unpaid work in a family business, work experience or internship, approved course of education and volunteering. SNAICC has long called for the

²¹ SNAICC, 'Stronger ACCOs, Stronger Families'. Retrieved from: <https://www.snaicc.org.au/wp-content/uploads/2023/05/SNAICC-Stronger-ACCOs-Stronger-Families-report-2022.pdf>

Activity Test to be abolished as it operates as a barrier for many Aboriginal and Torres Strait Islander families in accessing early childhood education and care.

SNAICC's recently released *Funding Model Options for ACCO Early Years Services Final Report* highlighted the importance of ACCOs and how current funding approaches hinder ACCOs in providing holistic, wraparound supports. The Report highlighted the need for funding for ACCO early years services to encompass five key principles: certainty, control, reliability, responsiveness and administrative simplicity. Based on these principles, SNAICC's research report recommends the introduction of a new dedicated funding model for ACCO early years services that comes from one funding source. The model is block-based, needs-based and includes funding for backbone support, with base funding scaled based on population, remoteness and need.

In addition to appropriately funding ACCOs to deliver these services to Aboriginal and Torres Strait Islander children and families, there is a need for joined up, collaborative approaches to address gaps and overcome barriers.

Connected Beginnings is a grants program jointly funded by the Department of Education and the Department of Health and Aged Care, that aims to integrate local support services to improve access to services for Aboriginal and Torres Strait Islander children and families across a range of sectors.

Connected Beginnings supports children from birth to school age, and pregnant women, with school readiness and educational outcomes to close the gap between Aboriginal and Torres Strait Islander children and non-Indigenous children. This is achieved by sharing knowledge and improving outcomes for children and facilitating Aboriginal and Torres Strait Islander engagement with integrated early childhood education, health and family support services across the country.

Connected Beginnings projects have been established in every state and territory of Australia – currently supporting 40+ sites across Australia with 50 to be established by 2025.

The programs are developed and run by 'backbone organisations', which are teams that work with Aboriginal and Torres Strait Islander community members and organisations to codesign goals and solutions to support children. This ensures the sites:

- are led by Aboriginal and Torres Strait Islander people
- fund meaningful activities delivered in place and on Country
- fund solutions that meet the unique needs of each community.

Since SNAICC's engagement as the official Community Partner in 2022, the number of ACCOs funded to deliver backbone support under Connected Beginnings has increased from two to more than 20. By leveraging the resources and expertise of Aboriginal and Torres Strait Islander

communities, the program improves access to early childhood, maternal and child health and family support services. This is a model that can be grown and tailored to address gaps and overcome barriers for Aboriginal and Torres Strait Islander children and families.

Finally, the Aboriginal and Torres Strait Islander early years workforce is a critical component to ensuring that ACCOs and other place-based responses can operate effectively.

SNAICC continues to focus on the importance of building and investing in a strong and sustainable Aboriginal and Torres Strait Islander early childhood education and care workforce, including building cultural safety within policy and regulatory frameworks.

In 2023, SNAICC was engaged by the Australian Department of Education to examine targeted programs to support studies and placements for Aboriginal and Torres Strait Islander potential educators and teachers to strengthen the Aboriginal and Torres Strait Islander ECEC workforce. This project was part of an action under *Shaping Our Future National Children's Education and Care Workforce Strategy* and considered current factors of success, barriers and opportunities for government to take action in the support and growth of programs and services supporting students to obtain their ECEC qualifications.

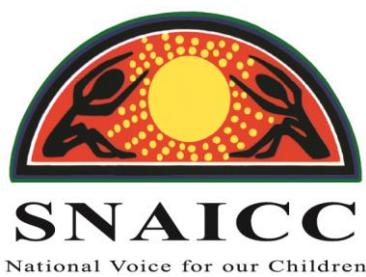
SNAICC's report contained 14 recommendations, including priority recommendations, across four themes – education and training organisations and support; ACCO sector investment; government policy frameworks; and data investment. A key finding from this report is that the combination of tailored and place-based workforce programs and the critical support provided by ACCO ECEC services are key in creating successful students and a strengthened Aboriginal and Torres Strait Islander ECEC workforce. The combination of the specific program and the support from the ACCO ECEC service is what has the biggest impact on a student being able to complete their qualification. The report has been provided to the Australian Department of Education and the recommendations are expected to be publicly released by the end of 2024.

Recommendation Nine: Ensure that activities under the strategic agenda align with, complement and amplify SNAICC's early childhood policy positions and advocacy.

Conclusion

The Social Justice Commissioner's work belongs to a landscape of essential reforms and initiatives currently working in Australia to realise and safeguard the rights of Aboriginal and Torres Strait Islander people. SNAICC is supportive of the Commissioner's proposed goals, which align with existing frameworks and hold self-determination and healing at the centre. We note the

opportunities for the Commissioner to utilise and amplify other reform mechanisms currently at work and look forward to what can and will be achieved over the next five years from joining up such important and influential streams of work. SNAICC would like to thank Commissioner Kiss for her work elevating Aboriginal and Torres Strait Islander voices and the opportunity to submit to the Informing the Agenda Project. We welcome any opportunities to discuss this submission and our work further, and we will continue to advocate to ensure the unique rights of Aboriginal and Torres Strait Islander children are understood and upheld in tandem with the Commissioner's agenda.



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