






# 8 Self-determination

**The recommendations in this chapter relate to: the path to self-determination (188-204); and accommodating difference: relations between Aboriginal and non-Aboriginal people (205-213).**

**Key themes from recommendations (26 recommendations)**

- The principle of self-determination needs to be defined, and steps taken to examine the approaches that can be used to enhance levels of self-determination among Aboriginal and Torres Strait Islander people.
- Governments need to improve the mechanisms they use to provide funding to Aboriginal and Torres Strait Islander communities to simplify the process by providing funds through a single source and providing greater certainty through three-year funding agreements.
- Action is needed to encourage Aboriginal and Torres Strait Islander participation in the media, and to educate non-Aboriginal and Torres Strait Islander people to improve community attitudes and address ignorance.
- States and Territories need to observe the operations of successful Aboriginal and Torres Strait Islander councils and consider the adoption of similar models for local governance.

Legend  Complete  Mostly Complete  Partially Complete  Not Implemented  Out of Scope

**Commonwealth | Key actions:** The Commonwealth has negotiated with various Aboriginal and Torres Strait Islander organisations to improve self-determination and provided funding and targeted programs, including the IAS, which support more strategic investment in Aboriginal and Torres Strait Islander funding. The Commonwealth is also supporting the implementation of the Aboriginal and Torres Strait Islander-led Empowered Communities initiative.



**Remaining gaps:** While there have been improvements in grant programs and funding, greater clarity and consistency is required in providing funding outside of the IAS to fully implement the RCIADIC recommendations. Similarly, greater priority is required for community development and social, economic and cultural plans.

**New South Wales | Key actions:** The New South Wales Government has established OCHRE which focuses on developing community partnerships to address cultural, educational, and economic empowerment issues covered in these recommendations. This allows community members and government to come together to negotiate and execute formal agreements on issues of mutual interest. The NSW Government has promoted development of Aboriginal arts through relevant funding to Create NSW for fellowships and grants.



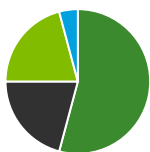
**Remaining gaps:** New South Wales has not addressed recommendations relating to support for journalism courses with significant Aboriginal content and the wider representation of Aboriginal people in the media. In addition, further consideration of an approach to funding for organisations that is consistent state-wide, and simple to adopt, is required.

**Victoria | Key actions:** The Victorian Government has developed several initiatives to address the issue of self-determination in government policy, such as the *Koori Services Improvement Strategy* and the *Indigenous Partnership Strategy*, as well as measures to counter discrimination. These include the *Victorian Aboriginal Affairs Framework*, which requires each government department to report on issues of discrimination in service provision, and provisions under the *Aboriginal Justice Agreement*.



**Remaining gaps:** Victoria has not yet addressed the production of specific units of study relating to Aboriginal and Torres Strait Islander content in journalism and media nor the development of awards for excellence in Aboriginal and Torres Strait Islander affairs reporting.

**Queensland | Key actions:** The Queensland Government has undertaken significant action to promote the principle of self-determination in policy making, including the development of the *Partners in Government Agreement*, which provides that Aboriginal and Torres Strait Islander local governments are respected as equivalent local governments in their own right. Queensland has also implemented initiatives such as the *Indigenous Regional Arts Development Fund* to promote Aboriginal and Torres Strait Islander art.



**Remaining gaps:** Queensland has addressed most recommendations in this chapter to some degree. However, greater priority is required for the development and application of key performance indicators

and performance management for Aboriginal and Torres Strait Islander communities and organisations, as well as appropriate processes for preparing community development plans to inform decision-making and policy making.

**South Australia | Key actions:** The South Australian Government has sought to consult with Aboriginal and Torres Strait Islander Regional Councils on matters relating to self-determination and has recently introduced a new “tiered approach to governance and leadership”, which aims to provide a greater platform for Aboriginal and Torres Strait Islander involvement in decision making. In addition, the South Australian Government has supported Aboriginal and Torres Strait Islander arts through the Indigenous Visual Arts Industry Support Program.



**Remaining gaps:** Further consideration of block grant funding, development of appropriate performance indicators for organisation funding, and the impact of organisational structures on funding provisions is needed. Greater attention is also required for the use of social, cultural and economic development plans; and the portrayal of Aboriginal and Torres Strait Islander people in the media.

**Western Australia | Key actions:** The Western Australian Government has undertaken significant steps towards self-determination of Aboriginal and Torres Strait Islanders in the State. Legislative measures focused on improving self-determination have been passed and Aboriginal and Torres Strait Islander perspectives embedded into the policy development process.



**Remaining gaps:** Western Australia has gaps in the implementation of recommendations relating to the length, stability and simplicity of organisation funding and support for media organisations.

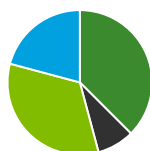
**Tasmania | Key actions:** The principle of self-determination has been addressed through the Reset agenda, which has increased engagement between the Government and the Aboriginal community to facilitate stronger participation in matters relating to Aboriginal Affairs. Tasmania implemented anti-discrimination measures through cross-cultural training and activities led by the Office of the Anti-Discrimination Commissioner.



**Remaining gaps:** Tasmania has not taken any action to address a number of recommendations relating to block grant funding, funding accountability measures, or support for media organisations. Further consideration of measures to ensure non-discriminatory service provision and support of the arts is also

required.

**Northern Territory | Key actions:** The Northern Territory Government has addressed the principle of self-determination in policy making by providing flexible organisational structures in community government councils to encourage Aboriginal and Torres Strait Islander participation. In addition, the Northern Territory has also implemented measures to address racial discrimination through the Anti-Discrimination Commission, which consults regularly with Aboriginal and Torres Strait Islander organisations and legal services.



**Remaining gaps:** The Northern Territory has not addressed key recommendations relating to block grant funding, culturally appropriate service delivery, and the facilitation of social, economic and cultural development plans. Further development of culturally appropriate journalism course content is also required to better meet the RCIADIC recommendations.

**Australian Capital Territory | Key actions:** The ACT Government has promoted self-determination and Aboriginal and Torres Strait Islander leadership through the *ACT Multicultural Strategy 2010-2013*. Anti-discriminatory measures have also been implemented through provisions in the *Discrimination Act 1991* and activities undertaken by the ACT Human Rights Commission.



**Remaining gaps:** The ACT Government has not addressed recommendations relating to funding accountability and performance management for Aboriginal and Torres Strait Islander organisations. In addition, further progress will be required to address support for developing community development plans and incorporating economic, social and cultural development plans into decision-making.

## 8.1 The path to self-determination (188-204)

### Recommendation 188

*That governments negotiate with appropriate Aboriginal organisations and communities to determine guidelines as to the procedures and processes which should be followed to ensure that the self-determination principle is applied in the design and implementation of any policy or program or the substantial modification of any policy or program which will particularly affect Aboriginal people.*

#### Background information

The RCIADIC Report noted that Aboriginal and Torres Strait Islander community-controlled organisations are by far the most effective support mechanism to discuss self-determination as they are more likely to receive support from Aboriginal and Torres Strait people.

#### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation. The implementation of this recommendation requires a holistic approach from all levels of government.

#### Key actions taken and status of implementation

The **Commonwealth** Government has addressed this recommendation via a number of different initiatives, programs, and policy actions. The National Indigenous Reform Agreement (NIRA) (*Closing the Gap*) – launched November 2012 – encourages Aboriginal and Torres Strait Islander people to be engaged in the development of policy reforms that will impact on them.

The NATSIHP (2013-2023) and its Implementation Plan have been developed by the DOH in partnership with the National Health Leadership Forum – the national representative body for Aboriginal and Torres Strait Islander peak organisations who provide advice on health. Through collaboration with Aboriginal and Torres Strait Islander leaders, the DOH aims to ensure that their work reflects the priorities of Aboriginal and Torres Strait Islander people.

The Third Action Plan 2016-17 of the National Plan to Reduce Violence against Women and their Children (2010-2022) was launched in 2016 as part of a long-term commitment by governments to cooperate to change Australia's attitudes to, and tolerance for, violence against women and their children. As part of the development process of the Third Action Plan, the DSS consulted with Aboriginal and Torres Strait Islander communities to ensure a representation of their perspective. The Third Action Plan also established a working group to lead a partnership approach with Aboriginal and Torres Strait Islander women with the aim of gaining an improved understanding of the context of violence in Aboriginal and Torres Strait Islander communities, and to facilitate responses that are culturally appropriate and effective.

The DSS is a funding contributor to Jawun as well as a participating member by supplying departmental secondees. Jawun is a not-for-profit organisation that manages secondments from the public and private sectors to a range of Aboriginal and Torres Strait Islander partner organisations across Australia. Jawun aims to develop capabilities for Aboriginal and Torres Strait Islander people and organisations. The DSS' Place-Based Approach to Disadvantage requires staff to engage with the community as equal partners and genuinely collaborate with all stakeholders to develop and deliver outcomes based on interventions to address social harms and to build local community capability.

Under the IAS, project or grant activity must foster productive relationships and draw on the knowledge of communities and key stakeholders. Stakeholders should be involved in all stages of the grant lifecycle including the design of the activity.

In 2016, funds were allocated to develop the Indigenous Business Sector Strategy. This 10-year Strategy is being designed in collaboration with a wide range of Indigenous entrepreneurs and businesses across Australia and across industries. The Strategy will be implemented in 2017 and PM&C will continue to work closely with stakeholders on implementation to ensure the Strategy continues to meet the needs of Indigenous businesses over time.

- *Recommendation 188 has been implemented through the NIRA and the initiatives undertaken by PM&C and the Departments of Health and Social Services.*

**New South Wales** reported in their 1993 implementation report that a self-determination principle had been enforced by the Government. This approach has been implemented through various policies, including through OCHRE. The Local Decision Making initiative under OCHRE invests in regional Aboriginal governance bodies which receive progressive devolution of decision making from Government as their governance capacity is strengthened.

In addition, the Corrective Services NSW AAC actively seeks the formal involvement of Aboriginal community representatives in developing policies and programs, as well as responses to new initiatives. The *Children and Young Persons (Care and Protection) Act 1998 (NSW)* also provides a clear directive for encouraging the support and participation of Aboriginal people in decision making and in the implementation of programs that promote self-determination.

- *New South Wales has implemented Recommendation 188 through initiatives such as the OCHRE Strategy, the Local Decision Making model, and the Children and Young Persons (Care and Protection) Act 1998.*

In **Victoria**, government policy has focused on providing Aboriginal and Torres Strait Islander organisations with funding to deliver programs, and including Aboriginal and Torres Strait Islander people on government advisory committees, taskforces and planning forums. Strategies such as the *Koori Services Improvement Strategy* and the *Indigenous Partnership Strategy* were developed in 2005. Partnerships have been developed with the Premier's AAC, and the Aboriginal Justice Forum.

Additionally, the Victorian Aboriginal Affairs Framework 2013-2018 incorporated a clear framework for plans to close the gap for Aboriginal and Torres Strait Islander people. Victoria's 2005 *Implementation Review of the Recommendations from the Royal Commission into Aboriginal deaths in custody* noted that Victoria considered this recommendation to have been completed. The AJA, in place since 2000, represents a significant partnership in determining policy between the Victorian Government and the Aboriginal and Torres Strait Islander community of Victoria.

- *Victoria has implemented Recommendation 188 through working with its Aboriginal and Torres Strait Islander community in developing policy.*


**Queensland** has incorporated self-determination into implementation of policy through acts such as the *Environmental Protection Act 1994 (Qld)*, *Community Services Act 2007 (Qld)* and the recently amended *Child Protection Act 1999 (Qld)*, which are to be administered in consultation with, and with regard to the interests of, Aboriginal and Torres Strait Islander people. A joint body of Aboriginal and Torres Strait Islander Policy and Queensland Police Service Steering Committee was formed to take over responsibility for the function of Aboriginal and Torres Strait Islander policing.

Additionally, a Strategic Policy Framework entitled *Transition to Aboriginal and Torres Strait Islander Community Control of Health in Queensland* included self-determination principles such that Aboriginal and Torres Strait Islander people could have control over the way services are provided in their community. In 2017, the Queensland Government released *Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017-2037*, which also prioritises self-determination as a means of empowering Aboriginal and Torres Strait Islander families. Principles of self-determination are also explored in the Aboriginal and Torres Strait Islander Cultural Capability training that is delivered to all departments.

- *Queensland has addressed the objectives of Recommendation 188 by embedding the principles of self-determination into policy development processes and legislation.*


In **South Australia**, advisory bodies such as the Aboriginal Health Council and the South Australian Aboriginal Education and Training Advisory Committee have endorsed the aims of this recommendation. Additionally, the South Australian Government has sought to consult with the chairperson of each Aboriginal and Torres Strait Islander Regional Council on matters relating to self-determination, as per the 1994 implementation report. The SA Government has recently implemented a new 'tiered approach to governance and leadership' which aims to provide a greater platform for

Aboriginal and Torres Strait Islander nations to be involved in government decision making and to provide them with the tools for self-determination. The approach ranges from a process of Aboriginal and Torres Strait Islander nation building, to priority setting under the Aboriginal and Torres Strait Islander Regional Authority model, to Treaty negotiations.


 *South Australia has implemented Recommendation 188 through its tiered approach to governance and leadership.*

**Western Australia** had already enacted the *Aboriginal Affairs Planning Authority Act 1972* (WA) prior to the RCIADIC Report, which was established with the intent of promoting Aboriginal and Torres Strait Islander consultation for the economic, social and cultural advancement of Aboriginal and Torres Strait Islander people. Under this Act, the Department of Aboriginal Affairs established a Working Party to examine issues relating to effective community management. At a local level, the *Aboriginal Communities Act 1979* (WA) granted powers to incorporated communities to make laws relating to community lands in regard to matters necessary or convenient for the purpose of securing decency, order and good conduct on community lands. The *Children and Community Services Act 2004* (WA) provides for Aboriginal and Torres Strait Islander self-determination when participating in the protection and care of their children.

In addition to these changes, the Western Australian Government has recently completed Service Priority Review, which recommended that the Western Australian Government focus on community needs, community engagement and co-design. The Aboriginal Policy Unit was also recently established with the primary aim of transforming the relationship between Aboriginal and Torres Strait Islander people and government in Western Australia to deliver mutual and enduring benefits, including through policy co-design. More specific policy and program examples developed through government and Aboriginal and Torres Strait Islander community partnerships include the 6718 Advantage Plan, and the Supporting Families pillar of the Regional Services Reform's Roadmap.

 *Western Australia has implemented Recommendation 188 through enacting self-determination focused legislation and embedding Aboriginal and Torres Strait Islander perspectives into the policy development process.*

**Tasmania** supported this recommendation in their 1994 implementation report by hosting a public forum aimed at negotiating with Aboriginal and Torres Strait Islander organisations and communities to address the concept of self-determination. The principle of self-determination is embedded in the Tasmanian Government's agenda to *Reset the Relationship with Tasmanian Aboriginal People*. Under this agenda the Government has engaged with Aboriginal and Torres Strait Islander communities across the state, with a particular focus on the Aboriginal Dual Naming Policy, land return, and enhanced access to programs and services through a revised eligibility policy. Further, the Tasmanian Government has co-signed a Statement of Intent with the Tasmanian Regional Aboriginal Communities Alliance that commits signatories to working collaboratively for enriched cultural, social, economic and political participation.

 *Tasmania has implemented Recommendation 188 through embedding self-determination into policy development processes.*

The **Northern Territory** Government has taken action to address this recommendation by encouraging agencies to implement policies and procedures which provide Aboriginal and Torres Strait Islander people with the opportunity to participate at an appropriate level in decision making. Local governments provide flexible organisational structures in community government councils to demonstrate the Northern Territory Government's commitment to self-determination.


 *The Northern Territory has implemented Recommendation 188 through consulting with its Aboriginal and Torres Strait Islander elected body to develop policy.*

The **Australian Capital Territory** has taken action to address this recommendation by creating the ACT Aboriginal and Torres Strait Islander Elected Body. This body, established in 2008 aims to ensure participation by Aboriginal and Torres Strait Islander people in the ACT in the formulation, coordination and implementation of Government policies and services that affect them. The Elected

Body has seven elected members that are required to consult with the Aboriginal and Torres Strait Islander people of the ACT. The body receives and passes on to the chief minister views of Aboriginal and Torres Strait Islander people living in the ACT on issues of concern to them.

The ACT has established the Whole of Government Aboriginal and Torres Strait Islander Agreement as a way to implement this recommendation. The agreement highlights focus areas for government policy, identified by the ACT Aboriginal and Torres Strait Islander community, ACT Government and other relevant parties. Under the Agreement, the ACT Government reports annually on the progress made against each of the focus areas.

Although largely superseded by the new policy, previously the ACT Multicultural Strategy 2010-2013 encouraged representation of Aboriginal and Torres Strait Islander people on committees, panels and advisory roles. This strategy was implemented through programs such as the United Nggunawal Elders Council, elders camps, Aboriginal and Torres Strait Islander leadership grants, Aboriginal and Torres Strait Islander cultural grants, and the ACT Genealogy Project.

 *The Australian Capital Territory has implemented Recommendation 188 through its ACT Multicultural Strategy and Aboriginal and Torres Strait Islander Elected Body.*

## **Recommendation 189**

*That the Commonwealth Government give consideration to constituting ATSIC as an employing authority independent of the Australian Public Service.*

### **Background information**


The work of ATSIC was recommended to be separated from the Australian Public Service with the anticipation of increasing the work of local teams and Aboriginal organisations within regional Australia.

### **Responsibility**

The recommendation is solely the responsibility of the Commonwealth Government as it relates directly to the Commonwealth.

### **Key actions taken and status of implementation**

No action was taken before ATSIC ceased operating in 2005. Since this recommendation relates directly to the operation of ATSIC it is now out of date since it cannot be delegated to another entity.

 *No action was taken at the Commonwealth level to address Recommendation 189 prior to ATSIC ceasing operations in 2005.*

## **Recommendation 190**

*That the Commonwealth Government, in conjunction with the State and Territory Governments, develop proposals for implementing a system of block grant funding of Aboriginal communities and organisations and also implement a system whereby Aboriginal communities and organisations are provided with a minimum level of funding on a triennial basis.*

### **Background information**

Block funding provides Aboriginal and Torres Strait Islander organisations with more flexibility on how the funding is spent. A minimum level of funding enables Aboriginal and Torres Strait Islander communities to plan ahead and achieve long term goals that they have set for themselves.

### **Responsibility**


The Commonwealth, and all State and Territory governments have responsibility for this recommendation as it is addressed to the Commonwealth and jurisdictional governments.

### **Key actions taken and status of implementation**


The **Commonwealth** Government has addressed Recommendation 190 via the following actions. The *1993-94 Annual Report* noted that ATSIC introduced block grants as the standard budgeting

condition. However, funding to Aboriginal and Torres Strait Islander organisations was not consistently established on a triennial basis.

Under the IAS, long-term contracts are provided where the circumstances deem them appropriate with funding length tailored to the specific requirements of the project. PM&C supports the principle that, where possible and appropriate, longer-term contractual periods for awarded grants can contribute to improved stability for provider organisations. It should be noted that while the average term for grant funding under the IAS is 23 months, this includes projects which are intended to be single year, including workforce capability training, pilot programs and infrastructure spending. Aboriginal organisations are able to apply for multi-year funding. Additionally, there are large number of services, including medical Aboriginal Medical Services and Aboriginal Legal Services, which have much longer than 3 year funding.

 *Recommendation 190 has been mostly completed. Although ATSIC introduced block grants and the Aboriginal Education Strategic Initiatives Program used triennial funding, the Commonwealth does not consistently deliver funding on a triennial basis.*


In **New South Wales**, block grant and triennial funding proposals were included in the 1992 *National Commitment to Improve Outcomes in Policies and Programmes for Aboriginal Peoples and Torres Strait Islanders*. Currently, government departments and agencies are encouraged to provide funding on a triennial basis to ensure adequate planning, development and delivery of services. From 1 October 2017, funding for all Out of Home Care (OOHC) service providers, including Aboriginal and Torres Strait providers, has increased to five year contracts.

 *New South Wales has mostly implemented Recommendation 190. While agencies are encouraged to provide funding on a triennial basis, this is not a consistent requirement across all areas of Aboriginal grant funding.*

The **Victorian** Government noted that in 1993 the State would encourage self-management of Aboriginal and Torres Strait Islander organisations by providing funds to organisations that deliver programs to the Aboriginal and Torres Strait Islander population. In its 2005 implementation report, the Victorian Government noted that it had moved to three-year departmental consolidated funding and service agreements for all DHS funded agencies (including Aboriginal and Torres Strait Islander organisations). The Victorian government has noted that it is currently undertaking consultation with Aboriginal and Torres Strait Islander organisations to further progress funding reforms.

 *While Victoria has taken steps to implement Recommendation 190, these have not been consistently implemented across all Departments.*


The **Queensland** Government reported in the 1993 implementation report that they were supportive of making funding commitments on a triennial basis. Currently, Queensland Government departments are increasingly directing their funding to Aboriginal and Torres Strait Islander community-controlled organisations. Funding is provided as outsourced service delivery, with contracts of between 3 and 5 years in length.

 *Queensland has mostly implemented Recommendation 190, by supporting the triennial funding, but not requiring it for all areas of funding.*


**South Australia** has stated that Recommendation 190 is the responsibility of the Commonwealth. No evidence was observed of South Australian action to respond to this recommendation.

 *South Australia has not implemented Recommendation 190, however, considers that it is the responsibility of the Commonwealth.*


Over 2009-10 to 2011-12, **Western Australia** provided triennial funding to the Broome Aboriginal Media Association. Since 2003, triennial funding has since been provided to Goolarri Media Enterprises in Broome to support music development in Aboriginal and Torres Strait Islander people.

 *Western Australia has partially implemented Recommendation 190, by supporting triennial funding for some Aboriginal communities and organisations, however this has not been consistently applied across all Aboriginal communities and organisations.*


Funding from the **Tasmanian** Government to Aboriginal and Torres Strait Islander community organisations, with the exception of housing and municipal services – is typically for short projects of up to two years, rather than for service delivery. The Tasmanian Government has consistently engaged with the Department of the Prime Minister and Cabinet since the implementation of the Indigenous Advancement Strategy in 2014.

 *Tasmania has partially implemented Recommendation 190 through the provision of some funding through longer-term funding arrangements and ongoing engagement with the Commonwealth. However, Aboriginal communities and organisations in Tasmania are not consistently provided with a minimum level of funding on a triennial basis.*

The **Northern Territory** Government supported the development of block grant funding for Aboriginal and Torres Strait Islander communities, as advised by the 1994-95 implementation report. However, because the Northern Territory received (as of 1995) the bulk of its funding from the Commonwealth on an annual basis, the Northern Territory Government noted that providing funding on a triennial basis would not be feasible until there is a change in the overarching structures guiding these arrangements. The Northern Territory Government is currently pursuing options to move to longer term funding arrangements where appropriate.

 *The Northern Territory has not addressed Recommendation 190, noting that it is currently pursuing options to move to longer term funding arrangements.*

In 1992 the **Australian Capital Territory** endorsed the National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders which details an intention to develop bilateral agreements with the Commonwealth Government specifying funding arrangements for programs delivered in the ACT. No further action has been reported since 1992.

 *The Australian Capital Territory has not addressed Recommendation 190.*

## **Recommendation 191**

*That the Commonwealth Government, in conjunction with the State and Territory Governments, develop means by which all sources of funds provided for or identified as being available to Aboriginal communities or organisations wherever possible be allocated through a single source with one set of audit and financial requirements but with the maximum devolution of power to the communities and organisations to determine the priorities for the allocation of such funds.*

### **Background information**

As Aboriginal and Torres Strait Islander communities and organisations are eligible to receive funding from a variety of different government agencies and programs, funding should be allocated through a single source where possible.

### **Responsibility**

The Commonwealth, and all State and Territory governments have responsibility for this recommendation as it is addressed to the Commonwealth and jurisdictional governments.

### **Key actions taken and status of implementation**


The *1993-94 Annual Report* noted that the **Commonwealth** agreed with the objective, but multiple sources of funding continued to exist delivered through various agencies and different levels of government.

Introduced in July 2014, the IAS replaced more than 150 individual programs with five broad-based programs. The IAS is designed to manage a more strategic investment in Aboriginal and Torres Strait Islander funding that focuses on achieving measurable outcomes and simplifying program arrangements. Through this, funding and reporting requirements have become more streamlined and




consistent. However, it should be noted that other Commonwealth agencies provide Aboriginal and Torres Strait Islander specific funding that is outside of the IAS. Communities and organisations can also apply for non-Aboriginal and Torres Strait Islander specific funding.


In addition to providing \$4.9 billion over 4 years (from 2016-17) through the IAS, PM&C also manages funding through National Partnership Agreements, Special Accounts and Special Appropriations. Under the IAS, PM&C has also established risk and compliance frameworks which promote risk-based monitoring of providers, less stringent acquittal requirements for low risk providers and low value grants, and earned autonomy for higher performing providers.

 *The implementation of Recommendation 191 is partially complete at the Commonwealth level through the consolidation that has occurred through programs such as the IAS. However, across the Commonwealth Government funding is still not provided through a single source.*

In their 1993 report, the **New South Wales** Government noted that they were not going to arrange for single agency funding for Aboriginal communities or organisations. Currently, funding for Aboriginal communities remains separately provided through relevant government departments and agencies based on the services required.


 *New South Wales has not addressed Recommendation 191.*

In 1997, **Victoria** participated in discussions through the Australian Aboriginal Affairs Council to achieve greater coordination in funding to Aboriginal and Torres Strait Islander organisations. The Victorian Government has also indicated that it is undertaking consultation with Aboriginal and Torres Strait Islander organisations on progressing funding reform. The Victorian Government has implemented the Victorian Common Funding Agreement which provides a standardised funding agreement for use by all Victorian government departments when funding the not-for-profit community sector. The Victorian Common Funding Agreement (VCFA) is designed to benefit all users by being scalable, predictable and easy to understand, with core Terms and Conditions that apply to all funding. However, there remains no “single source” for organisation funding.


 *Victoria has partially implemented Recommendation 191 by taking steps to co-ordinate funding for Aboriginal and Torres Strait Islander organisations, but have not implemented a “single source” approach.*

In **Queensland**, the former Department of Family Services and Aboriginal and Islander Affairs provided funding flexibility through large composite funds (i.e. where funding would be provided from a number of different sources). Funding priorities were determined based on regional consultation, and whether the Aboriginal and Torres Strait Islander communities were engaged in these processes. This recommendation was partially supported by the Queensland Government as it was not current practice in Queensland as of 1997 to use a single source of funding. This is because funds were spent in the relevant area of responsibility.

The Queensland Productivity Commission has recommended that the Queensland Government pool funding for Aboriginal and Torres Strait Islander communities or organisations in its recent review of service delivery in Queensland’s remote and discrete Aboriginal and Torres Strait Islander communities. The report was delivered at the end of 2017. The Queensland Government is required to formally respond to these findings by June 2018.


 *Queensland has partially implemented Recommendation 191 by taking steps to co-ordinate funding for Aboriginal and Torres Strait Islander organisations as it is currently considering the Queensland Productivity Commission’s recommendation to pool funding.*

**South Australia** noted in the 1993 implementation report that multiple sources of funding would continue for Aboriginal and Torres Strait Islander communities and organisations, and as such did not intend to implement this recommendation. More recently, South Australia has flagged Recommendation 191 as a responsibility of the Commonwealth.


 *South Australia has not addressed Recommendation 191, and notes that it is the responsibility of the Commonwealth.*

**Western Australia** noted in 1997 that implementation of this recommendation required a joint effort by the Commonwealth Government and the other jurisdictions in order to be fully addressed.


The Western Australian Government has noted that while the Commonwealth and Western Australian Government have not implemented the Recommendation, the Western Australian Government has conducted reviews of State and Commonwealth funding.

 *Western Australia has not addressed Recommendation 191.*


**Tasmania** cited in their 1995 implementation report that this recommendation is primarily a Commonwealth responsibility. Under the Commonwealth Government, multiple sources of funding exist and funding is not provided through a single source. The Tasmanian Government has advised that it cannot implement this recommendation without the Commonwealth taking the lead. The Tasmanian Government has noted that they have consistently engaged with the Department of Prime Minister and Cabinet since the implementation of the Indigenous Advancement Strategy.

 *Tasmania has partially implemented Recommendation 191 through ongoing engagement with the Commonwealth. The Tasmanian Government notes that full implementation requires the Commonwealth to address this recommendation in full.*

The **Northern Territory** reports in their 1994-95 implementation report that negotiations were beginning to commence with the Commonwealth government over developing a single source of funding to address this recommendation.

 *The Northern Territory has partially implemented Recommendation 191 by taking steps to co-ordinate funding for Aboriginal and Torres Strait Islander organisations, however, there is no evidence that the Northern Territory have implemented a "single source" approach.*

As of 1997, the **Australian Capital Territory** supported this recommendation, however were yet to collaborate with the Commonwealth Government to support a single source of funding.

 *The Australian Capital Territory has not addressed Recommendation 191.*

### **Additional commentary**

PM&C advised that the **Commonwealth** is supporting the implementation of Empowered Communities in eight regions across Australia. The initiative was put forward by Aboriginal and Torres Strait Islander leaders from the eight regions in March 2015. The Government responded in December 2015, committing to working with leaders to jointly agree priorities and regional investment. In the first year of implementation, the leaders are focusing on working with their communities and other stakeholders to identify communities' needs, priorities and aspirations and understanding current government service delivery arrangements at the regional level. This will enable them to articulate long-term Regional Development Agendas that address social, economic and cultural development which will guide government investment. Government's support for this work includes providing data and funding information to EC regions from across the Commonwealth, with the PM&C Regional Network a key point of engagement and coordination. The Government has also provided \$14.4 million over three years till the end of June 2019.

### **Recommendation 192**

*That in the implementation of any policy or program which will particularly affect Aboriginal people the delivery of the program should, as a matter of preference, be made by such Aboriginal organisations as are appropriate to deliver services pursuant to the policy or program on a contractual basis. Where no appropriate Aboriginal organisation is available to provide such service then any agency or government delivering the services should, in consultation with appropriate Aboriginal organisations and communities, ensure that the processes to be adopted by the agency in the delivery of services are appropriate to the needs of the Aboriginal people and communities in receiving such services. Particular emphasis should be given to the employment of Aboriginal people by the agency in the delivery of such services and in the design and management of the process adopted by the agency.*

### Background information

Aboriginal and Torres Strait Islander organisations have a greater understanding of the needs of Aboriginal and Torres Strait Islander people, and are thus best placed to implement policies or programs that particularly affect Aboriginal and Torres Strait Islander people.

### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation. The implementation of this recommendation requires a holistic approach from all levels of government.


### Key actions taken and status of implementation

The **Commonwealth** Government has addressed Recommendation 1996 through a number of different avenues. The Aboriginal and Torres Strait Islander Health Council – established May 1996 – was used to advise the Minister of Health and Family Services on strategies to improve health outcomes for Aboriginal and Torres Strait Islander people. The Australian Public Service Indigenous Employment Strategy (APSIES) (2012-2016) aimed to foster Aboriginal and Torres Strait Islander employment within the Australian public services. The *Closing the Gap* initiative committed to increasing the representation of Aboriginal and Torres Strait Islander people in the public sector to 2.6% by 2015. PM&C advised that the number of Aboriginal and Torres Strait Islander people employed in the Commonwealth public sector has increased from 2.2% to 2.4% in 2016.

The Indigenous Procurement Policy – which commenced in 2015 – applies to all non-corporate Commonwealth entities. The policy has three parts: a target number of contracts that need to be awarded to Aboriginal and Torres Strait Islander businesses; a mandatory set-aside of contracts for Aboriginal and Torres Strait Islander businesses when the majority of goods or services are being delivered in remote Australia and for all procurements valued between \$80,000 and \$200,000; and mandatory minimum requirements for Aboriginal and Torres Strait Islander employment and Aboriginal and Torres Strait Islander supplier use in certain high value contracts. PM&C advised that these changes have led to a significant increase in the use of Aboriginal and Torres Strait Islander businesses in the delivery of goods and services for government, in particular in remote Australia where Aboriginal and Torres Strait Islander people make up a higher proportion of the population.

Under the IAS, over half of all IAS funding provided for Aboriginal and Torres Strait Islander grants has been contracted to Indigenous organisations. The proportion of funding under the IAS 2014 grant round was to Aboriginal and Torres Strait Islander organisations higher at 55 per cent, up from an estimated 30 per cent prior to the implementation of the IAS.


Under the National Framework for Protecting Australia's Children – Third Action Plan 2015-18 – all governments committed to continuing to fully implement the Aboriginal and Torres Strait Islander Child Placement Principle. Under the Third Action Plan (2015-18) all governments agreed to consider five elements – prevention, partnership, placement, participation and connection – in relation to all national actions, including trials and strategies under the Third Action Plan.

 *The Commonwealth has implemented Recommendation 192 through a number of mechanisms since 1996, such as the Aboriginal and Torres Strait Islander Health Council, the APSIES, Closing the Gap, and the Indigenous Procurement Policy.*

Since 2011, the **New South Wales Ministerial Taskforce on Aboriginal Affairs** and OCHRE (the NSW Government's co-designed community-focused plan for Aboriginal affairs) have worked to address this recommendation by building the capacity of Aboriginal non-government organisations to deliver services to local communities and by building enduring relationships with communities. A local decision making model was implemented to strengthen Aboriginal involvement and develop community leadership and governance. The development of an Aboriginal Non Government Organisation (NGO) capacity building strategy has helped to ensure NGOs are functional, sustainable and effective. An increased focus on the employment of Aboriginal people within the Public Service Commission was also implemented.

Since 2011, the Department of Family and Community Services has also been supporting capacity building in the OOHHC sector. Currently, there are ten accredited Aboriginal OOHHC service providers in

NSW and seven Aboriginal Community Controlled Organisations, in partnership with non-Aboriginal service providers, who are seeking accreditation with the Office of the Children's Guardian.


 *New South Wales has fully addressed Recommendation 192 through the Ministerial Taskforce on Aboriginal Affairs, OCHRE and capacity building, through the Department of Family and Community Services.*

By 1997, **Victoria** had implemented several policies to achieve this recommendation such as the *Victorian Aboriginal Health Outcomes Agreement*, the *Koori Services Improvement Strategy*, *Reconciliation and Respect* and the *Indigenous Partnership Strategy*. The 2005 Victorian implementation report stated that the hierarchy specified in this recommendation has been generally adopted throughout government.


 *Victoria has implemented several policies that fully address Recommendation 192.*

In addition to the initiatives introduced under Recommendation 188, **Queensland's** *Learning Earning Active Places Strategy* (2011-2014) outlined how the government would collaborate with Aboriginal and Torres Strait Islander people to improve access to employment, education, health and housing opportunities, including mentoring and professional development. In addition, a strategic policy Framework entitled *Transition to Aboriginal and Torres Strait Islander Community Control of Health in Queensland* included self-determination principles such that Aboriginal and Torres Strait Islander people could have control over the way services are provided in their community.

The Department of Child Safety Youth and Women and the Department of Communities, Disability Services and Seniors have adopted policies under which service delivery to predominantly Aboriginal and Torres Strait Islander target groups should be undertaken by Aboriginal and Torres Strait Islander community-controlled organisations, wherever possible. Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) is also leading a trial of Social Reinvestment in remote and discrete Aboriginal and Torres Strait Islander communities across Queensland.


 *Queensland has implemented several policies that fully address Recommendation 192.*

In **South Australia**, the Family and Community Services Department established a steering group in 1993 which was comprised of several Aboriginal and Torres Strait Islander organisations to direct the review of Aboriginal Young Offender programs. This aimed to develop appropriate models of service delivery for young Aboriginal and Torres Strait Islander people and their families through numerous community consultation processes. Current practice also includes the South Australian AAC providing confidential policy advice to the Government, with a key focus on justice-related issues.


 *South Australia has taken some limited steps towards implementing Recommendation 192. However, no explicit preferences are given to Aboriginal organisations to deliver services which particularly affect Aboriginal people.*

In **Western Australia**, the Department of Aboriginal Affairs builds and supports partnerships between Aboriginal and Torres Strait Islander people, government and the broader community. The 1993 implementation report noted that the WA Department of Aboriginal Affairs had previously facilitated a number of committees including the Aboriginal Lands Trust, the Aboriginal Cultural Material Committee, the Aboriginal Justice Council, Regional Aboriginal Justice Councils, the Commission of Elders, the Intergovernmental Working Group on Environmental Health, the Aboriginal Affairs Coordinating Committee, and Interagency Steering Committees. In addition, a number of government departments put in place strategies to increase the number of Aboriginal and Torres Strait Islander people working in the public service. This has been formalised through Section 50(d) of the Equal Opportunities Act 1984, which gives public sector agencies the authority to employ Aboriginal people where it is identified that service provision is best provided by an Aboriginal person.


Further, the Western Australian Government has implemented 'Attract, Appoint and Advance', a public sector employment strategy for Aboriginal people designed to help public authorities realise good practices around attracting, appointing, retaining and developing Aboriginal employees.

 *Western Australia has mostly implemented Recommendation 192. While no explicit preferences are given to Aboriginal organisations to deliver services which particularly affect Aboriginal people, the Western Australian Government has increased the number of Aboriginal and Torres Strait Islanders working within government to deliver services and has formed a number of committees to improve representation within Government service delivery.*


Following the RCIADIC, the-then **Tasmanian** Department of Community and Health Services previously worked to ensure services delivered to Aboriginal and Torres Strait Islander families were delivered by, or in consultation with, Aboriginal and Torres Strait Islander organisations. For example, the Aboriginal Education and TAFE training program, delivered by the Department of Industrial Relations, Vocational Education and Training, was provided by Aboriginal and Torres Strait Islander organisations in 1995. In 1992, the Department developed an Aboriginal Employment and Career Development Strategy.

 *Tasmania has partially implemented Recommendation 191 by taking steps to ensure that relevant services are delivered by, or in consultation with, Aboriginal and Torres Strait Islander organisations but has not addressed key elements of the recommendation.*

In 1997, the **Northern Territory** organised regular meetings to discuss issues facing the Aboriginal and Torres Strait Islander population. Additionally, all communities on Aboriginal and Torres Strait Islander land employ community government councils to carry out local governance roles, leading to not only increased employment of the Aboriginal and Torres Strait Islander population but also increased Aboriginal and Torres Strait Islander participation in the community. The Northern Territory Government has noted that its departments also engage local Aboriginal and Torres Strait Islander employees in the implementation of many policies.

 *The Northern Territory has partially implemented Recommendation 192 through efforts to engage local Aboriginal and Torres Strait Islander employees in the implementation of many policies.*

In 1995, the **Australian Capital Territory** developed the *Employment Strategy for Aboriginal and Torres Strait Islander people* in consultation with the ACT Government Community Services Directorate, the ACT Public Service Aboriginal and Torres Strait Islander Staff Network, and the Aboriginal and Torres Strait Islander Elected Body. This strategy aimed to attract and retain Aboriginal and Torres Strait Islander people to the ACT public service through enhanced education and training opportunities. Particular programs seek input and advice from Aboriginal and Torres Strait Islander people and have identified Aboriginal and Torres Strait Islander positions. However, this is inconsistently implemented across ACT government programs.

 *The Australian Capital Territory has partially implemented Recommendation 192 as it has improved employment opportunities for Aboriginal and Torres Strait Islander people in the public service, but has not addressed key elements of the recommendation.*

### **Additional commentary**

The **Commonwealth** Government's DSS noted that further work is being undertaken to strengthen service delivery for Aboriginal and Torres Strait Islander programs, such as by improving collaboration between agencies and stakeholders, providing greater focus to Aboriginal and Torres Strait Islander people in the funding processes, and strengthening Aboriginal and Torres Strait Islander ownership and engagement in the delivery of services.

## **Recommendation 193**

*That the Commonwealth Government, in negotiation with appropriate Aboriginal organisations devise a procedure which will enable Aboriginal communities and organisations to properly account to government for funding but which will be least onerous and as convenient and simple as possible for the Aboriginal organisations and communities to operate. The Commission further recommends that State and Territory Governments adopt the same procedure, once agreed, and with as few modifications as may be essential for implementation, in programs funded by those governments.*

## Background information

A consistent approach to accounting for funding would increase accountability without limiting the efficiency and autonomy of Aboriginal and Torres Strait Islander organisations.


## Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation. This recommendation states that the Commonwealth Government should first develop appropriate procedures with Aboriginal and Torres Strait Islander organisations and then the States and Territories are to adopt the same procedure once the procedures have been agreed.

## Key actions taken and status of implementation


As outlined in the **Commonwealth** Government's response to Recommendation 191, PM&C has contributed to streamlined and consistent funding and reporting requirements through the IAS. IAS guidelines are subject to review and improvement processes to ensure simplicity, clarity, reduced red tape, and to provide stakeholders access to up-to-date information.

PM&C also manages Aboriginal and Torres Strait Islander-specific funding through National Partnership Agreements, Special Accounts and Special Appropriations. Grant funding is also available through other Commonwealth agencies.


 *The Commonwealth has mostly implemented Recommendation 193 through the IAS which streamlines program delivery and adds accounting consistency for funding. However, it should be noted that other Commonwealth agencies provide Aboriginal and Torres Strait Islander specific funding that is outside of the IAS.*

In the 1993 implementation report, **New South Wales** reported that they supported this recommendation, noting the responses listed in Recommendations 190 and 191. Additionally, the Office of Aboriginal Affairs fully supported the proposal for simplifying the requirements of accountability including the development of a uniform accounting system. The OCHRE policy is also relevant to this recommendation. OCHRE is the NSW Government's community-focused plan for Aboriginal affairs. The Plan invests in language and culture, healing, Aboriginal governance, education and employment. The Local Decision Making initiative under OCHRE invests in regional Aboriginal governance bodies who are supported through a progressive devolution of decision making from Government as their governance capacity is strengthened.

Separately, the Officer of the Registrar (*Aboriginal Land Rights Act*) has undertaken workshops for Local Aboriginal Land Councils on legislative requirements. Aboriginal Affairs has also worked with the Office of the Registrar for Indigenous Corporations to deliver the *Managing in Two Worlds, Introduction to Corporate Governance Training*.


 *New South Wales has partially implemented Recommendation 193 by implementing and supporting governance training to assist organisations with meeting accountability requirements but has not expressly addressed the recommendation's requirements regarding simplicity.*

The **Victorian** Government established accountability requirements in 1997 for non-government organisations which receive government funding, including Aboriginal and Torres Strait Islander organisations. Additionally, in consultation with the Aboriginal and Torres Strait Islander community, the Management Support and Training Unit was developed following the RCIADIC report to provide training and support in financial management and reporting for non-government organisations. It is unclear whether these accountability requirements meet the requirements around simplicity set out in the recommendation.


 *Victoria has partially implemented Recommendation 193 by implementing accountability requirements for organisations receiving government funding. However, it is unclear as to whether these requirements meet the standard set in the recommendation around simplicity.*

In **Queensland**, the number of funding programs administered by the Department of Family Services and Aboriginal and Islander Affairs was consolidated in response to this recommendation, with improvements in the level of standardisation across programs. A training manual for community-based Aboriginal and Torres Strait Islander management committees was also developed. The

Department of Child Safety Youth and Women and the Department of Communities, Disability Services and Seniors also work closely with the community-controlled sector in the design of Aboriginal and Torres Strait Islander programs and associated accountability arrangements. For example, the departments worked with Family Wellbeing Services to design a flexible reporting arrangement to allow localised responses to evolve.


 *Queensland has implemented Recommendation 193 by working closely with Aboriginal and Torres Strait Islander communities to design appropriate accountability procedures.*

**South Australia** noted in their 1994 implementation report that the details of this recommendation would require consultation with the Commonwealth Government in order to be implemented. More recently, South Australia has advised that they consider Recommendation 193 to be a responsibility of the Commonwealth.


 *South Australia has not implemented Recommendation 193, noting that they consider it to be the responsibility of the Commonwealth.*

**Western Australia** noted in their 1997 implementation report that a Commonwealth response was required to fully address this recommendation. As of 1997, it had been partially implemented by the Department for Community Development. Under the new scheme, accountability requirements for all organisations were required to be uniform, including joint programs. Support and training was provided for groups having difficulty in meeting accountability requirements at the time of rollout (pre-1997).


Since this time, the Delivering Community Services in Partnership (DCSP) policy has been jointly developed by the State and the not-for-profit sector to build and support a more mature funding and contracting relationship between the sectors, including focusing on improving services and support for vulnerable and disadvantaged people. A revised policy, anticipated for September 2018, will place greater emphasis on co-design with service users and communities. Under the DCSP, the Department of Finance has standardised documentation, guides and reporting to reduce the administrative burden imposed on not-for-profits (including Aboriginal and Torres Strait Islander organisations). Public authorities are strongly recommended to use this standardised documentation.

 *Western Australia has implemented Recommendation 193 designing appropriate accountability funding and contracting procedures with the not-for profit sector, including Aboriginal and Torres Strait Islander organisations.*


**Tasmania** reported in their 1993 implementation report that this recommendation was not applicable to Tasmania, as it is a Commonwealth responsibility.

 *Tasmania has not implemented Recommendation, and has stated that it is the responsibility of the Commonwealth.*

The **Northern Territory** developed a simplified form of accounting for small communities in response to this recommendation, as reported in the 1996 implementation report. A *Model Accounting Procedures and Policy Manual* was developed to make accounting procedures more simple, consistent and realistic.

 *The Northern Territory has partially implemented Recommendation 193 but has not addressed accountability requirements more broadly.*

The **Australian Capital Territory** report in their 1997 implementation report that they were willing to work with the Commonwealth Government to adopt procedures in the ACT appropriate for this recommendation. No further detail on action arising from these discussions was provided.

 *The Australian Capital Territory has not addressed Recommendation 193.*

## **Recommendation 194**

*That Commonwealth, State and Territory Governments, in negotiation with appropriate Aboriginal communities and organisations, agree upon appropriate performance indicators for programs relevant*

*to Aboriginal communities and organisations. The Commission further recommends that governments fund Aboriginal organisations and communities to enable appropriate level of infrastructure and training as is required to develop, apply and monitor performance indicators.*

### Background information

Appropriate performance indicators are necessary to ensure that the outputs and outcomes from programs can be assessed. However, it is also necessary that organisations be adequately funded to implement these processes.

### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation, as the implementation of this recommendation is addressed to the Commonwealth and jurisdictional governments.

### Key actions taken and status of implementation


The **Commonwealth** Government's 1995-96 Annual Report noted that Framework Agreements were negotiated between the former Department of Health and Family Services (DHFS), ATSIC, each jurisdiction, the National ACCHO and its jurisdictional affiliate organisations. The Agreements provided a forum for Aboriginal and Torres Strait Islander organisations to agree on a range of issues, including performance monitoring. In November 1995, an MOU was signed between the DHFS and ATSIC, which established a set of performance indicators for monitoring and evaluating health issues.

The national health KPIs (commonly referred to as the "nKPIs") provide a large range of performance indicators for health programs delivered by Aboriginal and Torres Strait Islander organisations. The broad areas covered by the nKPIs include maternal and child health, preventative health and chronic disease management. National reports are published annually showing areas of improvement and areas needing improvement at both a national and a regional level.

The Commonwealth also undertakes reporting against the Aboriginal and Torres Strait Islander Health Performance Framework, which is a biennial report providing information on the health status, outcomes, and social determinants of health and health system performance for Aboriginal and Torres Strait Islander communities.

PM&C has also developed a suite of performance indicators which are applied to IAS projects in consultation with organisations. As part of the IAS, PM&C is undertaking the following initiatives:

- Supporting Aboriginal and Torres Strait Islander organisation capability and capacity, and service transfer to these organisations. This includes strategies to actively support the emergence of new Aboriginal and Torres Strait Islander organisations as well as strengthening Aboriginal and Torres Strait Islander organisations funded under the IAS.
- Maturing the Department's approach to performance assessment and management for IAS grants, including developing better performance data, more rigorous contract management, and funding decisions based on assessed performance.
- Improving grant data analysis and reporting capability to inform priority areas for investment, and development of performance information and the IAS Evaluation program.


 *Recommendation 194 has been implemented through appropriate performance indicators, both in health policy and also in broader policy areas.*

The **New South Wales** 1993 implementation report reported that the-then Premier endorsed the National Commitment to Improved Outcomes in Policies and Programmes for Aboriginal Peoples and Torres Strait Islanders. The objectives of this commitment included: land, culture and heritage, economic development, social well-being and government service.


Accords on service delivery priorities between Aboriginal governance bodies and the NSW Government provide a mechanism for negotiation of performance indicators and monitoring and reporting arrangements. Various departments and agencies have taken actions that are relevant to Recommendation 194. Juvenile Justice NSW developed performance indicators for funded community organisations in consultation with Aboriginal organisations. The Ministry of Health also has key



performance indicators related to the screening of Aboriginal patients in the Aboriginal Chronic Care Program.

 *New South Wales has partially implemented Recommendation 194 through a variety of policy responses but has not expressly indicated a state-wide approach in its response, nor funding for organisations and communities.*


In **Victoria**, the Victorian Aboriginal Affairs Framework 2013-2018 established rigorous performance management and reporting frameworks, following extensive consultation with Aboriginal and Torres Strait Islander groups. The Victorian Government has also established a Management Support and Training Unit to provide training and support in financial management and reporting for non-government organisations. This unit was developed in consultation with Aboriginal and Torres Strait Islander community. Funding was also allocated in 1995 for training of administrators and committees of Aboriginal and Torres Strait Islander organisations. The AJA also sets out indicators for many of its goals, and was subject to an independent evaluation in 2012.

 *Victoria has implemented Recommendation 194 through its use of performance indicators in the Victorian Aboriginal Affairs Framework 2013-2018.*


Up to 2012, the then **Queensland** Department of Aboriginal and Torres Strait Islander Affairs would release quarterly reports for select Aboriginal and Torres Strait Islander communities with data on key performance indicators. Discrete Indigenous Communities Key Indicators have since been published by the Department of Aboriginal and Torres Strait Islander Partnerships in 2014-15 and 2015-16.

Currently, the Queensland Government is working at officer level with the Commonwealth, State and Territory governments to provide input into COAG's revitalisation of Closing the GAP targets. The Government will be engaging the community as part of developing indicators through the refreshed Closing the Gap Agenda.


The Department of Child Safety Youth and Women is providing Family Wellbeing Services with access to the Advice, Referral and Case management client management tool to capture performance data, and services are trained in its use. The Queensland Government's response to the Queensland Productivity Commission's Inquiry into Service Delivery in Remote and Discrete Aboriginal and Torres Strait Islander communities will also consider how Aboriginal and Torres Strait Islander organisations can participate in service delivery and performance monitoring.

 *Queensland has partially implemented Recommendation 194 through a variety of different initiatives and policy responses, noting that its quarterly reporting has ceased and that it does not appear to fund organisations and communities to develop, apply and monitor performance indicators.*


The 1993 **South Australia** implementation report referred to previously developed performance indicators as being acceptable to minimise the reporting burden on Aboriginal and Torres Strait Islander communities and organisations. South Australia considers Recommendation 194 to be a responsibility of the Commonwealth.


 *South Australia has not taken action to address Recommendation 194, noting that they consider Recommendation 194 is the responsibility of the Commonwealth.*

The **Western Australian** government is in the process of developing the Human Services Outcomes Framework for community services between the Department of Finance, the Department of the Premier and Cabinet and the Western Australian Council of Social Services. The framework is intended to measure outcomes, improve funding decisions, and support community organisations in order to deliver better services. However, the Western Australian Government does not have a public sector-wide strategy to fund Aboriginal organisations and communities to develop, apply and monitor performance indicators.


 *Western Australia has partially implemented Recommendation 194 through a variety of policy responses but has not expressly indicated a state-wide approach in its response, nor funding for organisations and communities.*

In **Tasmania**, key performance indicators are negotiated with providers as part of the grant deed drafting process.

 *Tasmania has partially implemented Recommendation 194 by ensuring key performance indicators are negotiated with providers as part of the grant deed drafting process but has not specifically addressed key aspects of the recommendation.*

 *The **Northern Territory** does not appear to have taken any action to address this recommendation.*

The 2019-24 Aboriginal and Torres Strait Islander Agreement developed by the **Australian Capital Territory Government** and Aboriginal and Torres Strait Islander Elected Body includes an outcome framework, including performance indicators. However as this agreement is not yet fully developed or implemented, the Australian Capital Territory is only considered to have partially implemented Recommendation 194.

 *The Australian Capital Territory has partially implemented Recommendation 194 by developing the Aboriginal and Torres Strait Islander Agreement 2019-24, which is to include a new outcomes framework.*

#### **Additional commentary**

The **Commonwealth's** AIHW noted that the NATSIHP 2013-2023 and the associated Implementation Plan have strong links to the nKPIs for primary health care services specific to Aboriginal and Torres Strait Islander people.

### **Recommendation 195**

*That, subject to appropriate provision to ensure accountability to government for funds received, payments by government to Aboriginal organisations and communities be made on the basis of triennial rather than annual or quarterly funding.*

#### **Background information**

The RCIADIC Report established that Aboriginal and Torres Strait Islander organisations have been largely successful in delivering services to Aboriginal and Torres Strait Islander people when provided with adequate funding and placed in a position where they are respected service deliverers. It was suggested that funding should be changed from an annual to triennial basis in order to allow Aboriginal and Torres Strait Islander organisations to plan ahead and develop long term strategies.


#### **Responsibility**

The Commonwealth, and all State and Territory governments have responsibility for this recommendation. At a commonwealth level, the IAS is the primary program used to fund Aboriginal and Torres Strait Islander organisations. State and Territory Governments also run their own funding programs in addition to this. As funding of Aboriginal and Torres Strait Islander organisations occurs at both at all levels of government, this recommendation applies to both the Commonwealth, and the States and Territories.




#### **Key actions taken and status of implementation**

As outlined in the **Commonwealth** Government's response to Recommendation 190, under the IAS long-term contracts are provided where the circumstances deem them appropriate with funding length tailored to the specific requirements of the project. PM&C supports the principle that, where possible and appropriate, longer term contractual periods for awarded grants can contribute to improved stability for provider organisations. As advised by PM&C, the average term of grants under the IAS is 23 months (as at June 2017).

The Indigenous Australians' Health Program (IAHP) is guided by an overarching principle of sustainability, with a requirement that programs and services be directed and resourced over an adequate period of time to meet the COAG *Closing the Gap* targets. Primary health care payments to ACCHOs under the Program are made on a quarterly basis with funding agreements running for three years.

-  *Recommendation 195 has been partially addressed through the IAS, however triennial funding has not been consistently implemented at the Commonwealth level.*

Actions taken by the **States and Territories** in response to Recommendation 190 are also relevant to this recommendation as a significant proportion of government funding for Aboriginal and Torres Strait Islander organisations occurs at this level.

-  *Consistent with the status of Recommendation 190, New South Wales, Victoria and Queensland have mostly implemented Recommendation 195.*
-  *Consistent with the status of Recommendation 190, Western Australia and Tasmania have partially implemented Recommendation 195.*
-  *Consistent with the status of Recommendation 190, South Australia, the Northern Territory and the Australian Capital Territory have not implemented Recommendation 195.*

### Additional commentary

The **New South Wales** Government has noted that funding on a triennial basis has been adopted by various departments and agencies.

The **Victorian** Government has indicated that it is also undertaking consultations with Aboriginal and Torres Strait Islander organisations to further progress funding reform.

The **Western Australian** Government noted that the annual State Budget provides State agencies with budget projections for three years. State agencies that have financial arrangements with Aboriginal and Torres Strait Islander organisations are able to make funding arrangements on a triennial basis. The Western Australian Governments Delivering Community Services in Partnership Policy emphasises the shift to greater duration of contracts.

In **Queensland**, the Department of Child Safety Youth and Women and Department of Communities, Disability Services and Seniors funds organisations providing ongoing service delivery for periods of 3-5 years.

**South Australia** considers that Recommendation 195 is a responsibility of the Commonwealth.

The **Australian Capital Territory** has indicated it is committed to providing three year funding cycles. However, currently ongoing funding is re-negotiated every 12 months due to wage increases, CPI, changes in policy and meeting changing service demands.

## Recommendation 196

*That while governments are entitled to require a proper system for accounting of funds provided to Aboriginal organisations and communities, those organisations and communities are equally entitled to receive a full explanation of the funding processes which are adopted by governments. The Commission recommends that governments ensure that Aboriginal communities and organisations are given prompt advice, in writing and in plain English or, where appropriate, in Aboriginal languages, as to decisions concerning funding applications and as to financial and other matters relevant to the assessment of applications for funding made by those organisations and communities so as to enable those organisations and communities to make appropriate planning decisions.*

### Background information

The RCIADIC Report noted that many Aboriginal and Torres Strait Islander people have resented the “constant and critical monitoring” which their organisations receive from governments, officials and others (RCIADIC Report, Volume 4 paragraph 27.4.22). To overcome this issue, it was suggested that governments should clearly explain their funding processes to allow organisations to appropriately plan and respond to performance requirements to reduce the feelings of unfairness amongst Aboriginal and Torres Strait Islander people.

## Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. As funding is provided by both the Commonwealth, and States and Territories, both levels of government are responsible for the implementation of this recommendation.

## Key actions taken and status of implementation

In 1996, the **Commonwealth** Government's ATSIC noted that it had Program and Policy Guideline Statements in place that explained the criteria for funding under each available program. The Guideline also clarified the procedures that required staff to promptly and clearly notify clients of funding decisions with the given reasons.


The IAS offers clear guidelines on the process for selecting successful applicants for annual funding. Unsuccessful applicants are also able to apply for feedback following the selection process.

The PM&C Regional Network has an extensive on-the-ground presence through 34 offices in capital cities, regional and remote locations, supplemented by a direct presence in approximately 57 communities. The network places senior staff close to communities and has specialist officers who lead direct engagement with communities. In particular, Indigenous Engagement Officers live in their community, speak the language(s) used by the local community and use their knowledge of the community and language to help government understand local issues and to ensure community feedback is heard.


 *Recommendation 196 has been implemented through various initiatives. Aboriginal and Torres Strait Islander organisations are given clear guidelines as to the funding processes and are able to apply for feedback following the selection process.*

In **New South Wales** the former Department of Juvenile Justice had developed guidelines for the funding of community organisations as per the 1993 implementation report. These guidelines included a statement on the responsibility of the Department to inform community organisations as to the outcome of their applications.

The Department of Family and Community Services (FACS) has undertaken a range of initiatives relevant to Recommendation 196, including the commissioning process for implementation of the Permanency Support Program, which involved Aboriginal service providers in the co-design and development of the funding model. Aboriginal service providers were able to provide feedback on the contract documents and develop an implementation plan for the delivery of services. The Aboriginal Child, Family and Community Care State Secretariat has also been engaged by FACS as a strategic partner in the development of capable and sustainable Aboriginal service system, which has involved providing support for member organisations to develop their understanding of reform-related requirements, including recontracting in the FACS commissioning environment.


 *New South Wales has partially implemented Recommendation 196 by implementing relevant processes to support Aboriginal awareness of funding arrangements and decisions, but has not addressed key elements of the recommendation.*

The **Victorian** Government stated in its 1994 implementation report that its guidelines for non-government organisations worked to ensure that non-government organisations have access to clear and timely advice on the results of their applications including a statement detailing the basis from which funding will be provided. The Victorian Government has indicated that it is undertaking consultation with from Aboriginal organisations on progressing funding reform. Victoria has implemented the Victorian Common Funding Agreement (VCFA) which provides a standardised funding agreement for use by all Victorian government departments when funding the not-for-profit (NFP) community sector. The VCFA is designed to be predictable and easy to understand, with core Terms and Conditions that apply to all funding.


 *Victoria has mostly completed Recommendation 196 by reviewing its guidelines for funding of non-government organisation to provide predictable and easy to understand agreements. However improvements to the accessibility and timeliness of communications on funding outcome*

*decisions have not been addressed, including whether outcomes can be communicated in Aboriginal or Torres Strait Islander languages.*

In 1993, the-then **Queensland** Department of Aboriginal and Torres Strait Island and Multicultural Affairs provided a guide for feedback for Aboriginal and Torres Strait Island organisations applying for funding. The Department also provided funding application advice to applicants. Currently, the Department of Child Safety Youth and Women and Department of Communities, Disability Services and Seniors routinely provide this information to all organisations they fund, including Aboriginal and Torres Strait Islander agencies. All organisations are assigned a contract manager who can assist them to become familiar with these requirements.

 *Queensland has mostly completed Recommendation 196 by routinely providing funding information to organisations but has not stated whether advice is given, where appropriate, in Aboriginal languages.*

**South Australia** does not appear to have taken action to address this recommendation. More recently, South Australia has noted that they consider Recommendation 196 to be a responsibility of the Commonwealth.


 *South Australia has not addressed Recommendation 196, noting that they consider it to be the responsibility of the Commonwealth.*

Funding submissions in **Western Australia** were assessed according to guidelines developed in 1992 with particular reference to this recommendation. Under these guidelines, applicants were informed of the process and status of their application through formal correspondence and telephone as early as possible. If unsuccessful, applications were referred to other funding agencies. A funding database was also developed. An Aboriginal Programs Officer would also provide advice to the Aboriginal and Torres Strait Islander community and the Community Funding and Development Directorate on Aboriginal and Torres Strait Islander funding issues.


The revised Delivering Community Services in Partnership policy encourages government and not for profit partnerships, with transparency in decision making and sharing of information relating to funding decisions and contracting requirements. The State encourages the provision of advice in plain English and the use of Aboriginal and Torres Strait Islander languages wherever practical.

 *Western Australia has implemented Recommendation 196 by providing transparency in funding decisions and contracting requirements. The State encourages advice to be communicated in plain English and the use of Aboriginal and Torres Strait Islander languages wherever practical.*


**Tasmania** noted in their 1995 implementation report that the Office of Aboriginal Affairs in the Department of Premier and Cabinet would provide program funding and support to agencies. Grant deeds and associated documentation (including grant-related communication) are informed by the Tasmanian Government-sponsored 26TEN program to improve adult literacy and numeracy, including the use of plain English. Aboriginal organisations and community receive a comprehensive explanation of funding processes in relation to funding applications. Funding documents and grant documents are produced in plain English.

 *Tasmania has implemented Recommendation 196 by providing a comprehensive explanation of funding processes and producing grant documentation in plain English.*

In the **Northern Territory**, the *Indigenous Workplace Participation Initiatives Program* provides guidelines containing information on eligibility, priority areas, applying for funding, assessing applications and funding administration. The Northern Territory Local Government Grants Commission previously released a public document each year explaining the current funding processes, with a similar document being published for the subsidies provided to local governing bodies and other government organisations.

 *The Northern Territory has mostly completed Recommendation 196 by routinely providing funding information to organisations but has not stated whether advice is given, where appropriate, in Aboriginal languages.*

The **Australian Capital Territory** stated in its 1997 implementation report that it already employed all procedures as required by this recommendation.

 *The Australian Capital Territory has fully implemented Recommendation 196.*

## **Recommendation 197**

*That ATSIC Councillors and Commissioners at an early stage be encouraged to consult with Aboriginal organisations and communities to develop a program for training staff of Aboriginal organisations and communities in appropriate management and accounting procedures to ensure the efficiency and integrity of the organisations which are cultural appropriate. In particular, there should be a commitment to devising management procedures which provide rules for the relationship, obligations and rights, both individually and as between each other, of directors, managers and staff of Aboriginal organisations.*

### **Background information**

Providing centrally administered, culturally appropriate programs to train staff of Aboriginal and Torres Strait Islander organisations and communities in efficient management and accounting procedure ensures the efficiency and integrity of these organisations.

### **Responsibility**


This recommendation is solely the responsibility of the Commonwealth Government. This recommendation is addressed to ATSIC, which was a Commonwealth organisation.

### **Key actions taken and status of implementation**

The *1992-93 Annual Report* illustrated that ATSIC's Community Training Program – administered in 1992-93 – was used to provide grants to Aboriginal and Torres Strait Islander organisations to support community development and training.

In June 2000, ATSIC developed the Indigenous Training Organisation Project, later renamed the Managing in Two Worlds program, which is a culturally appropriate corporate governance training program for the directors, members and staff of Aboriginal and Torres Strait Islander organisations. The program, which has been regularly updated to address emerging best practice and changes to the law, is today delivered by the Office of the Registrar of Indigenous Corporations (ORIC). The program includes units on corporate structures, the roles and responsibilities of directors/members and staff, the separation of powers and basic financial management. In 2015-16, ORIC delivered corporate governance training to 865 directors, members and staff from 208 Aboriginal and Torres Strait Islander corporations.

In addition, the *Corporations (Aboriginal and Torres Strait Islander) (CATSI) Act 2006* came into force on 1 July 2007. It sets out rules regarding the roles, duties and responsibilities of directors, officers and employees of Aboriginal and Torres Strait Islander corporations. It also prescribes certain matters that must be included in the rule books (constitutions) of all corporations.

 *Recommendation 197 has been fully implemented at the Commonwealth level through the Managing in Two Worlds program, and the relevant provisions in the CATSI Act.*

## **Recommendation 198**

*That governments commit themselves to achieving the objective that Aboriginal people are not discriminated against in the delivery of essential services and, in particular, are not disadvantaged by the fact that the low levels of income received by Aboriginal people reduce their ability to contribute to the provision of such services to the same extent as would be possible by non-Aboriginal Australians living in similar circumstances and locations.*

### **Background information**

The RCIADIC Report noted that Aboriginal and Torres Strait Islander people aspire to receive the same level of essential services as non-Aboriginal and Torres Strait Islander people. However, several factors specific to Aboriginal and Torres Strait Islander people limit their ability to do so.

## Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation. In the *1992-93 Annual Report*, the Commonwealth recognised that while the delivery of essential services is primarily a State and Territory responsibility, the Commonwealth provides supplementary assistance to directly accelerate the provision of essential services.

## Key actions taken and status of implementation


The **Commonwealth** Government has undertaken the following actions. The ATSI Access and Equity Plan developed specific strategies to ensure that Aboriginal and Torres Strait Islander people are represented equitably in all policy and program development. The NPARSD (2009-2014) contributed to raising the standard and range of services delivered to Aboriginal and Torres Strait Islander families to be broadly consistent to other Australians in similarly sized and located communities.

Bilateral Indigenous Plans, formed between the Commonwealth and each State and Territory as part of the *Closing the Gap* initiative, set out specific initiatives of the relevant State and Territory governments aimed at improving the services provided to Aboriginal and Torres Strait Islander people. The National Disability Insurance Agency launched its Aboriginal and Torres Strait Islander Engagement Strategy in March 2017, which is aimed at ensuring that all staff are trained to understand and engage with Aboriginal and Torres Strait Islander people in a way that demonstrates support for their language, heritage and culture.


The DSS design and implement policies which are informed by service gap analysis such as data analysis, environmental scanning, mapping of existing coverage areas, examination of the policy objectives of activities, and local knowledge from States and Territories. The DSS continues to develop relationships and engage with relevant Aboriginal and Torres Strait Islander people, including local community controlled organisations and peak organisations, in order to gain insight into the service gaps experienced by Aboriginal and Torres Strait Islander communities.

DSS also administer the following programs which seek to combat the disadvantage associated with low incomes.


- The Families and Children Activity provides services to support disadvantaged families to improve the wellbeing of young people, to enhance family function, and to increase the participation of vulnerable people in community life. This involves early intervention and prevention activities, including parenting support programs and family and relationship services.
- The Financial Wellbeing and Capability Activity provides services to build financial resilience and wellbeing for vulnerable people and those most at risk of financial and social exclusion and disadvantage. This program currently funds 31 Aboriginal and Torres Strait Islander organisations.

 *Recommendation 198 has been fully completed, through various initiative which the Commonwealth has implemented to reduce discrimination towards Aboriginal and Torres Strait Island people when services are delivered – such as the Access and Equity Plan, the NPARSD and the Bilateral Indigenous Plans.*


**New South Wales** previously implemented legislative provisions within the *Racial Discrimination Act 1977* (NSW) and the *Anti-Discrimination Act 1977* (NSW) for providing equitable and non-discriminatory service delivery. The Office of Aboriginal Affairs monitors and assesses the provision of essential services to Aboriginal communities in NSW. The 1993 implementation report stated that the NSW Government was committed to ensuring that Aboriginal people receive no less provision of service than other Australian citizens. FACS, the Department of Education, and the NSW Police Force have policies in place, which set out service expectations for Aboriginal people. In addition, the Aboriginal Community Development Program was established to ensure that communities have access to essential services and that the development of community infrastructure is sustainable.

 *New South Wales has fully met Recommendation 198 by implementing anti-discriminatory measures and programs to ensure that Aboriginal individuals do not face discrimination in service provision.*


In 2004, **Victoria** implemented the *Victorian Aboriginal Affairs Framework*, which placed obligations on each government department to report on issues of discrimination in service provision. The Victorian Government put in place specific strategies to ensure that Aboriginal and Torres Strait Islander people were able to benefit from services provided to the broader population. For example, the Koori Health Unit works to reduce barriers to accessing health services by the Aboriginal and Torres Strait Islander population by employing Koori Hospital Liaison Officers and being supportive of effective ongoing cultural awareness programs within the health system. The AJA also sets out the delivery of programs that seek to reduce discrimination experienced by the Victorian Aboriginal and Torres Strait Islander community as a key objective.

 *Victoria has implemented Recommendation 198 through several measures to ensure Aboriginal and Torres Strait Islander individuals do not face discrimination in service provision.*


The financial arrangements for Aboriginal and Torres Strait Islander people in **Queensland** provide support for the provision of infrastructure for those with low incomes. The Queensland Government provides electricity to all Aboriginal and Torres Strait Islander consumers living in rural and remote areas at the same rate as those consumers living in urban areas, as cited in the 1993 implementation report. In addition, Queensland has implemented the Our Way Strategy, which is built on four key areas, one of which seeks to empower Aboriginal and Torres Strait Islander parents, families and communities by creating opportunities for families to be supported by services that are accessible, culturally respectful and safe, and where the importance of culture and connection is deeply understood.

 *Queensland has partially implemented Recommendation 198 by implementing certain anti-discriminatory measures but has not expressly addressed the broader objectives of the recommendation.*

**South Australia** employed a specific authority (the Works and Infrastructure Branch of the Department of State Aboriginal Affairs) to be responsible for managing the delivery of services to rural communities. South Australia has previously implemented legislative provisions within the *Local Government Act 1999* (SA) section 3, 6 and 8 and the *Family and Community Services Act 1972* (SA) section 10(3) for providing equitable and non-discriminatory service delivery. The South Australian Government has recently implemented a new, tiered approach to governance and leadership, which aims to provide a greater platform for Aboriginal and Torres Strait Islander nations to be involved in government decision making and ultimately, service delivery. The South Australian Government is also committed to increasing Aboriginal and Torres Strait Islander economic participation through the Aboriginal Economic Participation Strategy.

 *South Australia has fully met Recommendation 198 by implementing anti-discriminatory measures within the Local Government Act 1999 and the Family and Community Services Act 1972.*


**Western Australia's** *Remote Areas Essential Services* program currently offers essential repairs and maintenance services to remote Aboriginal and Torres Strait Islander communities. The Western Australian Government has committed to the principle of substantive equality. A recent manifestation of this commitment is the Essential and Municipal Services Upgrade Program, which provides further upgrades of essential and municipal services infrastructure in remote communities in line with the Remote Service Level Guidelines that apply across Western Australia. However, Western Australia does not appear to have any specific legislative provisions for providing equitable and non-discriminatory service delivery for Aboriginal and Torres Strait Islanders people.

 *Western Australia has completed Recommendation 196 by committing to substantive equality and implementing several programs to provide quality in the delivery of essential services.*


The **Tasmanian** Government monitors service provision to the Aboriginal and Torres Strait Islander population and the non-Aboriginal and Torres Strait Islander population on an as-needs basis. In the 1995 implementation report, the-then Tasmanian Department of Community and Health Services reported that it would aim to ensure that Aboriginal and Torres Strait Islander people are not




disadvantaged in accessing essential services or by their capacity to financially contribute to the provision of such services.

 *Tasmania has partially implemented Recommendation 198 by stating a commitment to anti-discriminatory service provision but has not expressly addressed the broader objectives of the recommendation.*

In the **Northern Territory**, the *Remote Service Delivery National Partnership Agreement* focused on fifteen priority locations. For example, the Power and Water Authority maintains essential services infrastructure on most communities with a population greater than 100 people to a level at, or above, the standard available to non-Aboriginal and Torres Strait Islander people living in similar circumstance and location. In order to ensure equity in service provision, a billing system was introduced in 1992 to encourage more efficient use of resources. In addition, the Department of Housing and Community Development provides services to homelands, remote communities, town camps, community living areas and urban centres across the Northern Territory, either directly or indirectly through contracted service providers. The eligibility criteria for public housing requires that an applicant derives an income from the Northern Territory, which can be sourced from wages, salaries or Centrelink benefits.

 *The Northern Territory has fully met Recommendation 198 by implementing anti-discriminatory provisions as part of the Remote Service Delivery National Partnership Agreement to make it unlawful to discriminate in the provision of essential services.*

In the **Australian Capital Territory**, an elected body of Aboriginal and Torres Strait Islander representatives was developed following the RCIADIC report to provide oversight of discrimination in service delivery to Aboriginal and Torres Strait Islander people. In the ACT, it is unlawful for ACT Government agencies or private enterprise to discriminate in the provision of essential services.

 *The Australian Capital Territory has fully met Recommendation 198 by implementing anti-discriminatory legislation to make it unlawful to discriminate in the provision of essential services.*

### **Additional commentary**

From 1 July 2016, the **Tasmanian** Government changed its approach for determining eligibility for Aboriginal and Torres Strait Islander programs and services to be more consistent with the Australian Government's approach.

Under the changed approach to determining eligibility, Tasmanian Government Aboriginal and Torres Strait Islander programs and services that only require self-identification for eligibility will continue to only require self-identification. Other Tasmanian Government Aboriginal and Torres Strait Islander programs and services will require applicants to complete an eligibility form (that includes a statutory declaration) and provide a statement confirming communal recognition from an Aboriginal organisation.

The Department of Health and Human Services (DHHS) administers Commonwealth funding of approximately \$1.4 million per annum for outreach clinical services to Aboriginal communities across Tasmania through the Medical Outreach Indigenous Chronic Disease Program. These services are a mix of medical specialist, midwifery and allied health services, and are provided almost exclusively at Aboriginal community controlled organisations.

### **Recommendation 199**

*That governments recognise that a variety of organisational structures have developed or been adapted by Aboriginal people to deliver services, including local government type services to Aboriginal communities. These structures include community councils recognised as local government authorities, outstation resource centres, Aboriginal land councils and co-operatives and other bodies incorporated under Commonwealth, State and Territory legislation as councils or associations. Organisational structures which have received acceptance within an Aboriginal community are particularly important, not only because they deliver services in a manner which makes them accountable to the Aboriginal communities concerned but also because acceptance of the role of such*

*organisations recognises the principle of Aboriginal self-determination. The Commission recommends that government should recognise such diversity in organisational structures and that funding for the delivery of services should not be dependent upon the structure of organisation which is adopted by Aboriginal communities for the delivery of such services.*

### Background information

There is diversity in the organisational structure of Aboriginal and Torres Strait Islander organisations, as “Aboriginal organisations have been formed to deal with the problems of Aboriginal communities because Aboriginal people believe that they are best able to solve their own problems” (RCIADIC Report, Volume 4 paragraph 27.5.27). As such, funding should not be dependent on the structure of the organisation.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. The recommendation asks that both the Commonwealth, and the States and Territories recognise the diversity of structure within Aboriginal and Torres Strait Islander organisations.

### Key actions taken and status of implementation

The **Commonwealth** implemented the CATSI Act in 2006 which provides a range of support to Aboriginal and Torres Strait Islander organisations incorporated under the Act to promote good governance.


PM&C’s Strengthening Organisational Governance framework requires that Aboriginal and Torres Strait Islander organisations who receive more than \$500,000 in annual funding from the Indigenous Affairs Group in PM&C be incorporated under Commonwealth legislation. However, the framework provides an exemption from the incorporation requirements for organisations who receive a low proportion of their total funding from these grants, or who can demonstrate that they are well-governed, high performing and low risk. In this respect the Government recognises a variety of organisational structures, while also actively promoting the benefits of incorporation under Commonwealth legislation, with a focus on those organisations that receive significant grant funding

Under the IAS, over half of all grant funding has been contracted to Aboriginal and Torres Strait Islander organisations. This funding is provided for a range of different entity types including organisations incorporated with the Australian Securities and Investments Commission and ORIC, State and Territory associations, cooperatives, and local councils.

 *Recommendation 199 is partially complete since, while the CATSI Act and the Strengthening Organisational Governance framework provide Aboriginal and Torres Strait Islander organisations some flexibility in their corporate structures, the Commonwealth has not implemented consistent requirements across all funding agencies that stipulate that funding should not be dependent on the structure of an organisation.*


The **New South Wales** Office of Aboriginal Affairs stated in the 1993 implementation report that it supported the need for diverse Aboriginal organisational structures that allow the specific needs of the local community to be met. The NSW Government additionally recognised that Aboriginal organisations need to be incorporated in order to ensure decision making and accountability mechanisms.

Currently, the LDM model (see Recommendation 193) ensures that participating Aboriginal regional governance bodies can define and determine their own governance structures, in reflection of their unique geography and regional history. OCHRE is the NSW Government’s community-focused plan for Aboriginal affairs. The Plan invests in language and culture, healing, Aboriginal governance, education and employment. The NSW Government has also developed strong cross-government working arrangements to engage with regional alliances participating in LDM as well as other peak bodies including the Aboriginal Education Consultative Group and the NSW Aboriginal Land Council.

 *New South Wales has fully completed Recommendation 199 by supporting the diversity of Aboriginal organisational structures through the LDM model.*

In **Victoria**, the 1994 implementation report noted that, although organisations were required to be incorporated (under state or Commonwealth legislation) to receive government funding, Aboriginal and Torres Strait Islander organisations themselves had many different models reflecting their own needs.


Victoria has since developed a variety of approaches to meet the funding needs of Aboriginal organisations. This includes specific arrangements for the Aboriginal Lands Trusts, funding to organisations that provide community services such as Aboriginal Community Co-operatives and Associations, as well as those with native title or Traditional Owner Settlements, and for Registered Aboriginal Parties that have statutory responsibilities for the management of Aboriginal cultural heritage. It is recognised that some Aboriginal organisations that are not a legal entity incorporated under state or commonwealth legislation. These bodies can receive funding under auspice arrangements.

 *Victoria has implemented Recommendation 199 as organisations which are not incorporated can receive government funding through alternate arrangements.*


In 1997, **Queensland** Government funding was not dependent on the structure of an organisation, however it did require a degree of accountability to the members of the community and to the Government. The 1991 Parliamentary Committee of Public Accounts Report and the Legislation Committee's Report "Towards Self-Government" recognised the need for diverse structures in Aboriginal and Torres Strait Islander communities.

Under the *Local Government Act 1993* (Qld), all 16 Aboriginal and Torres Strait Islander local governments are constituted on the same basis as other local governments. Furthermore, the Partners in Government Agreement provides that they are "respected as local governments in their own right and are recognised as having the same status and responsibilities as non-Indigenous local governments" while also being recognised as "having additional significant social and cultural responsibilities within their communities".

In addition to Queensland's State Government Financial Aid Funding program, which is provided specifically to Aboriginal and Torres Strait Islander Councils, Aboriginal and Torres Strait Islander Councils have access to all local government funding programs on the same basis as other local governments.

 *Queensland has implemented Recommendation 199 by supporting the diversity of Aboriginal and Torres Strait Islander organisational structures and ensuring that their structures do not affect their funding.*

In **South Australia**, the 1994 implementation report noted that diverse Aboriginal and Torres Strait Islander organisational structures were supported to meet the specific needs of local communities. The South Australian Government has also sought to meet Recommendation 199 through its new, tiered approach to governance and leadership (see Recommendation 198), which encourages strong engagement with Aboriginal and Torres Strait Islander leaders and nations in government decision making.

 *South Australia has partially implemented Recommendation 199 by supporting the diversity of Aboriginal and Torres Strait Islander organisational structures but has not addressed whether funding provisions are affected in their response.*

**Western Australia** stated in 1997 that it encouraged active participation in the delivery of local government services to Aboriginal and Torres Strait Islander communities by Aboriginal and Torres Strait Islander communities. Specific examples would include successful tendering processes for Aboriginal and Torres Strait Islander communities to receive roadwork programs and library services in remote areas. An Aboriginal Development Officer and an Aboriginal Employment Officer were employed by the Department of Local Government and the Western Australian Municipal Association, respectively.


 *Western Australia has partially implemented Recommendation 199 by supporting the delivery of local government services to Aboriginal and Torres Strait Islander communities by Aboriginal*

and Torres Strait Islander communities. However, the effect of organisational structures on funding has not been addressed.

The **Tasmanian** Government is a signatory to the *Agreement on Tasmanian Aboriginal and Torres Strait Islander Health and Wellbeing 2016–2020* (the Framework Agreement), along with the Australian Government and the Tasmanian Aboriginal Corporation, which is the Tasmanian National Aboriginal Community Controlled Health Organisation affiliate and peak body on Aboriginal health issues in the State. The Framework Agreement is implemented through the Tasmanian Aboriginal Health Forum, which provides members opportunities to share information, plan collaboratively and work in partnership to improve Aboriginal health outcomes and deliver on the aims of the Framework Agreement.


DHHS also engages with Aboriginal organisations outside of the TAC through the Tasmanian Aboriginal Health Reference Group (TAHRG). The TAHRG conducts quarterly meetings, that include representatives from DHHS, the Australian Government, Primary Health Tasmania and five Aboriginal organisations from across the State that deliver health services and programs for Aboriginal people.

As at recommendation 188, the Tasmanian Government has recently signed a Statement of Intent with TRACA, a group comprising representatives of seven Aboriginal community organisations.


 *Tasmania has partially implemented Recommendation 199 by supporting Aboriginal and Torres Strait Islander organisations but has not addressed whether funding provisions are affected in their response.*

The **Northern Territory** introduced the concept of Community Government Councils in 1978, which provided remote communities with the political and legal opportunity to determine their own leadership structure. Aboriginal and Torres Strait Islander communities can choose their own local government functions and arrangements within individualised council constitutions. These Community Governments provided a form of local self-government, thereby allowing Aboriginal and Torres Strait Islander people to have local representation and control over service delivery. They also obtained the power to make decisions affecting their communities according to their traditional power structures. Community Governments had the power to make their own by-laws, enabling the residents of a community to make specific laws applying to their own community.

The Northern Territory Government has noted that it continues to make progress in supporting and prioritising local service delivery through the Local Decision Making policy. It indicated that can be provided to regional councils and a range of Aboriginal organisations to further this outcome.

 *The Northern Territory has partially implemented Recommendation 199 by supporting the diversity of Aboriginal and Torres Strait Islander organisational structures but has not addressed whether funding provisions are affected in their response.*

In the **Australian Capital Territory**, funding is not dependant on the structure of an organisation; however, the ACT government must specify the legal entity to which it is providing public funds for reasons of accountability. This ensures the recipient of the funding is being held responsible.

 *The Australian Capital Territory has implemented Recommendation 199 by supporting the diversity of Aboriginal and Torres Strait Islander organisational structures and ensuring that their structures do not affect their funding.*

### **Additional commentary**

**Tasmania** is a signatory to the *Agreement on Tasmanian Aboriginal and Torres Strait Islander Health and Wellbeing 2016-2020* along with the Australian Government and the Tasmanian Aboriginal Corporation, which is the Tasmanian National ACCHO affiliate and peak body on Aboriginal and Torres Strait Islander health issues in the state. The Framework Agreement is implemented through the Tasmanian Aboriginal Health Forum, which provides members opportunities to share information, plan collaboratively and work in partnership to improve health outcomes and deliver on the aims of the Framework Agreement. The Department of Health and Human Services also engages with a variety of Aboriginal and Torres Strait Islander organisations through the Tasmanian Aboriginal Health Reference Group.

## Recommendation 200

*That the Commonwealth Government negotiate with State and Territory Governments to ensure that where funds for local government purposes are supplied to local government authorities on a basis which has regard to the population of Aboriginal people within the boundaries of a local government authority equitable distribution of those funds is made between Aboriginal and non-Aboriginal residents in those local government areas. The Commission further recommends that where it is demonstrated that equitable distribution has not been provided that local government funds should be withheld until it can be assured that equitable distribution will occur.*

### Background information

The RCIADIC Report noted an inequality in the provision of services at a local government level between Aboriginal and Torres Strait Islander people and non-Aboriginal and Torres Strait Islander people.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. The equitable distribution of funds is to be addressed at both the Commonwealth and State and Territory level.

### Key actions taken and status of implementation


The **Commonwealth** Government has responded to Recommendation 200 through the following policy actions. The April 1995 Local Government's Ministers' Conference (LGMC) agreed to a number of resolutions aimed at increasing the level of participation of Aboriginal and Torres Strait Islander people in local government processes and in increasing the level of services available.

The *Local Government (Financial Assistance) Act 1995* was enacted to provide financial assistance to local governments through the States and Territories. The intent of the Act is to provide equitable level of local government services across Australia.


The Department of Infrastructure and Regional Development is guided by the National Principles for the Allocation of Grants. The Act requires States and Territories to allocate funding to local councils in accordance with the National Principles, including principle 5, which states that financial assistance shall be allocated in a way which recognises the needs of Aboriginal and Torres Strait Islander people within their boundaries. The legislation requires the Australian Government Minister for Local Government to approve an allocation of funding to local councils each year after the State and Northern Territory Local Government Ministers confirm the funding has been allocated in accordance with the National Principles. The funding is untied in the hands of local government and is spent on local priorities, delivered on the basis of need, including services and local roads accessed by Aboriginal and Torres Strait Islander people. The Department is currently developing options for a review into the Financial Assistance Grants program.

 *Recommendation 200 is partially complete – while the LGMC agreed to increase the level of services available to Aboriginal and Torres Strait Islander people, the Commonwealth has not implemented requirements that funding be withheld to local governments that do not demonstrate an equitable distribution of services.*

In **New South Wales**, Financial Assistance Grants provided by the NSW Grants Commission to local governments are generally untied grants. Local governments use these grants and other revenue to deliver services to their local communities, consistent with their 10 year Community Strategic Plans (which must be based on social justice principles). The formula used to determine the grant to any individual local government considers a range of factors including the Aboriginal proportion of the community. The New South Wales Government has indicated that over the past ten years it has made significant investments into improving the standard of infrastructure in the 61 discrete Aboriginal communities across NSW. In particular, the NSW Government has implemented a joint initiative in relation to the upgrade, maintenance and operations of water and sewerage systems in discrete Aboriginal communities. One of the aims of this program is to equalise key infrastructure service provision to discrete Aboriginal communities with the standards enjoyed in the wider community. However, there does not appear to be any obligation to ensure equitable funding or permission to withhold funding under current legislation.


 *The New South Wales government has partially implemented Recommendation 200 by implementing equitable funding distribution across local governments, including basing funding on the proportion of Aboriginal people in the community. However, there does not appear to be any obligation to ensure equitable funding or permission to withhold funding under current legislation.*

The **Victoria Grants Commission Act 1976** (Vic) entitles the Minister responsible for Local Government to make a submission to the Commission to take action in response to any problems that may exist for Aboriginal and Torres Strait Islander communities and local roads funding. Funding for local roads in Aboriginal and Torres Strait Islander communities can be allocated through what has been termed as Special Impact Funding – a set of principles set out to give special consideration to the road needs of Aboriginal and Torres Strait Islander communities.

 *Victoria has taken steps to partially address Recommendation 200, however, has not consistently implemented equitable funding distribution requirements across all sources of local government funding.*


**Queensland** noted in the 1997 implementation report that this is a Commonwealth issue and that the Commonwealth Government needs to clearly establish that funds would be provided to local government authorities for the specific benefit of Aboriginal and Torres Strait Islander residents. More recently, the Queensland Government has noted that while the Local Government Grants Commission's methodology takes into account Aboriginal and Torres Strait Islander population as a demographic indicator in determining the distribution of the Commonwealth Financial Assistance Grant, it is not a major determinant and that such grants are untied. As such, the Grants Commission has no power to direct any council or to withhold funding based on demographic requirement.

Queensland notes that this recommendation cannot be fully implemented without Commonwealth legislative change. However, the Queensland Government offers a range of funding programs specifically for the identified Indigenous Local Governments, which provide a direct benefit to those local Aboriginal and Torres Strait Islander populations. Other programs such as Local Government Grants and Subsidies Program are competitive bid programs target primarily at Local Government infrastructure projects. These are competitive bid programs, which are not assessed on population demographic (including the proportion of Aboriginal and Torres Strait Islander residents).

 *While demographic indicators may be taken into consideration when distributing funding, Queensland has noted that there is no obligation to ensure equitable distribution between Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander people. As such, Queensland has partially implemented Recommendation 200.*

The **South Australian** government noted in the 1993 implementation report that this is a Commonwealth responsibility to provide financial assistance grants and road grants distributed on the advice of the Local Government Grants Commission. Conditional arrangements were reported to be inconsistent with the South Australian Government's position at the time which supported the maintenance of general purpose grants.

Currently, funding is provided on an annual basis, which includes a recognition of the proportion of Aboriginal and Torres Strait Islander residents, as recommended by the Local Government Grants Commission. The Commission and the Minister are required to provide recommendations for the distribution of funding to all local governing authorities and are not permitted to "withhold" funding under the current legislation.

 *South Australia has partially implemented Recommendation 200 as the Local Government Grants Commission includes a recognition of the proportion of Aboriginal and Torres Strait Islander residents in its recommendations. However, there is no obligation to ensure equitable funding or permission to withhold funding under current legislation.*

**Western Australia** does not appear to have taken any significant action in response to this recommendation.

- *Western Australia has not implemented Recommendation 200 as no significant action has been taken in response to this recommendation.*

In **Tasmania**, as of 1995 there was limited Local Government involvement in the provision of community services. Tasmania therefore supported this recommendation, however noted in 1995 that it is of limited relevance to Tasmania. The Tasmanian Government has noted its support of the relationship between the Flinders Council and the Cape Barren Island Aboriginal Association, particularly in the period since 2015 when the Commonwealth transitioned away from funding the delivery of municipal services.

- ◐ *Tasmania has partially implemented Recommendation 200 through supporting engagement between the Flinders Council and the Cape Barren Island Aboriginal Association. However, there is no obligation to ensure equitable funding or permission to withhold funding under current legislation.*

The **Northern Territory** currently distributes untied funding to local governments through the Territories Grant Commission which recognises the needs of Aboriginals and Torres Strait Islander people within their boundaries. However, as funding is provided by the Commonwealth to the Grants Commission on a per capita basis, the pool of funding available does not reflect the significantly higher proportion of Aboriginal and Torres Strait Islander people living in the Northern Territory. It was suggested in the 1995 implementation report that this recommendation will not come to fruition in the NT under current arrangements.

- ◐ *The Northern Territory government has partially implemented Recommendation 200 through distributing funding which recognises the needs of Aboriginal and Torres Strait Islander people. However, there does not appear to be any obligation to ensure equitable funding or permission to withhold funding under current legislation.*

As per the 1997 implementation report, the structure of the **Australian Capital Territory** is different to the other States and Territories with regard to passage of funds received by the ACT Government. Funding to the ACT is paid on an equal per capita basis without specific regard to the Aboriginal and Torres Strait Islander population. Therefore, this recommendation is not applicable to the ACT.

- ⊘ *Recommendation 200 does not relate to the Australian Capital Territory.*

#### **Additional commentary**

The **Tasmanian** Government has recently supported the relationship between the Flinders Council and the Cape Barren Island Aboriginal Association, particularly in the period since 2015 when the Commonwealth transitioned away from funding the delivery of municipal services.

### **Recommendation 201**

*The Commission has observed the operations of the Tangentyere Council in Alice Springs and the co-operative relationship established with the Alice Springs Town Council. It is imperative that the Tangentyere Council be provided with stable and adequate funding to enable it to continue and to enhance its provision of services and that governments, local government authorities, Aboriginal organisations and communities consider the adoption of similar models for local governance modified according to the desires of particular communities.*

#### **Background information**


The RCIADIC Report noted that the relations between Tangentyere Council and the Alice Spring Municipal Council was an important development and was of great significance for Aboriginal and Torres Strait Islander affairs in Australia.

#### **Responsibility**


The recommendation is the responsibility of the State and Territory Governments.

### Key actions taken and status of implementation

The **New South Wales** government has classified Recommendation 201 as not applicable.

 *The New South Wales Government has not implemented Recommendation 201.*

**Victoria** employed an Aboriginal employment consultant in 1991-92 to identify ways in which local government authorities could be assisted to employ more Aboriginal and Torres Strait Islander people. However, in the 1996-97 and 2005 implementation reports, this recommendation was classified as not relevant to Victoria.

 *Victoria has partially implemented Recommendation 201 by examining the ways local government authorities could employ more Aboriginal and Torres Strait Islander people, but has broadly considered this recommendation to not be relevant to its circumstances.*


**Queensland** has established the Partners in Government Agreement, which provides that “within the system of local government in Queensland, Indigenous local governments are respected as local governments in their own right and are recognised as having the same status and responsibilities as non-Indigenous local governments. At the same time, Indigenous local government leaders are recognised as having additional significant social and cultural responsibilities within their communities”.

 *Queensland has implemented Recommendation 201 by addressing its key objectives through the Partners in Government Agreement.*


In 1993, **South Australia** reported that it had endorsed a pilot study for an Aboriginal Community Council or land authority to obtain Local Government status, which was due for completion in June 1994. The South Australian Government has also addressed aspects of Recommendation 201 through its new, tiered approach to governance and leadership.

 *South Australia has partially implemented Recommendation 201 by taking steps toward supporting local Aboriginal and Torres Strait Islander governance but has not fully addressed Recommendation 201.*


**Western Australia** does not appear to have made any significant progress towards addressing this recommendation.

 *The Western Australian Government has not implemented Recommendation 201 as no evidence was provided to support that Western Australia has considered adopting similar local government models to that of Tangentyere Council.*

In **Tasmania**, there was limited local government involvement in the provision of community services in 1995. Tasmania therefore supported this recommendation, however noted that it was of limited relevance.

 *Tasmania has noted that Recommendation 201 is of limited relevance to its jurisdiction.*


The **Northern Territory** Government noted in the 1997 implementation report that the Tangentyere model is not necessarily applicable to remote Aboriginal and Torres Strait Islander communities where the majority of NT Aboriginal and Torres Strait Islander persons reside but is supportive of cooperative relationships between the Tangentyere Council and Local Government Councils. Additionally, the NT Government provided substantial funding to the Tangentyere Council Housing and Education services. The NT Government has also noted that it is not of the view that this model is appropriate for local governments.

 *The Northern Territory has partially implemented Recommendation 201, by being supportive of the Tangentyere model but not appearing to take action to implement the model for other councils.*

The **Australian Capital Territory** has not implemented any specific action in response to this recommendation. However, it is noted that the ACT Aboriginal and Torres Strait Islander Advisory Council works as the major consultative mechanism between the ACT Government and the local



Aboriginal and Torres Strait Islander communities regarding issues affecting the Aboriginal and Torres Strait Islander population in the ACT.

 *The Australian Capital Territory Government has not implemented Recommendation 201. The Australian Capital Territory Government does not consider Recommendation to be relevant to the Territory.*

## Recommendation 202

*That where such courses are not already available, suitable training courses to provide necessary administrative, political and management skills should be available for persons elected to regional councils of ATSIC, elected to, appointed to, or engaged in Aboriginal organisations involved in the delivery of services to Aboriginal people and other Aboriginal community organisations. The content of such training courses should be negotiated between appropriate education providers (including Aboriginal education providers) other appropriate Aboriginal organisations and government. Such courses should be funded by government and persons undertaking such courses should be eligible for such financial assistance in the course of studies as would be available under ABstudy guidelines.*

### Background information

The RCIADIC Report recommended that appropriate training programs be offered to Aboriginal and Torres Strait Islander people to assist with self-determination.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. Both the Commonwealth, and the States and Territories have oversight of Aboriginal and Torres Strait Islander organisations.

### Key actions taken and status of implementation

The **Commonwealth** Government's *1995-96 Annual Report* highlighted that a total of \$528,000 was allocated to cover the administrative costs for Regional Councillor Professional Development.


The ORIC, under the *CATSI Act*, provides courses that are directed towards building director's skills and improving governance and management for Aboriginal and Torres Strait Islander people. Registration is free for Aboriginal and Torres Strait Islander corporations. The training package consists of the *Managing in Two Worlds* program and corporation specific training.

The DSS and PM&C have developed an e-Learning course which raises awareness of the richness and diversity of Aboriginal and Torres Strait Islander cultures and histories.

 *Recommendation 202 has been fully implemented at the Commonwealth level. The courses provided by ORIC, and other Commonwealth bodies, satisfy the requirements of this recommendation.*

**New South Wales** implemented legislative provisions<sup>45</sup> that required organisations and/or education providers to provide adequate training, support and advice for Aboriginal organisations. This was to assist in the provision of their services and to build capacity. This includes allowances for TAFE NSW to provide Aboriginal Education and Training Provision, which are developed locally by Regional Aboriginal Coordinators in response to requests from Local Aboriginal Communities.

The Department of Employment, Education and Training provided fee-for-service courses and training programs for local Aboriginal communities. Additionally, Aboriginal people who are enrolled in TAFE NSW courses are eligible to receive financial assistance under *Abstudy*.


 *New South Wales has fully met Recommendation 202 through implementation of legislative provisions and relevant programs.*

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<sup>45</sup> This is noted on p. 456 of the *Change the Record* report. Further specifics on the nature of the legislation was not provided in the report, and could not be determined through the review.


**Victoria's Victorian Aboriginal Affairs Framework 2013-2018** details strategic priorities to enhance Aboriginal and Torres Strait Islander economic opportunity and healthcare. These priorities include: building prosperity through economic participation; protecting and supporting vulnerable children and families; better services, better outcomes, and; improved national action. The Victorian Aboriginal Education Association has continued to receive funding from the Victorian Government under this framework.

Victoria has also developed specific training for Aboriginal and Torres Strait Islander people working within Registered Aboriginal Parties, state and local government agencies and other groups. This training is delivered on behalf of the Victorian Government by La Trobe University and has been specifically written to address the legislative responsibilities of Aboriginal and Torres Strait Islander land managers involved in the protection of Aboriginal Cultural Heritage areas at all levels. Training opportunities are currently funded by government and attract ABSTUDY. Funding is also provided to the Victorian Aboriginal Community Controlled Health Organisation (VACCHO) to provide foundational governance workshops and individual support to Aboriginal and Torres Strait Islander organisations.


 *Victoria has mostly implemented Recommendation 202 by funding the Aboriginal Education Association, developing and funding training for Aboriginal and Torres Strait Islander people working within Registered Aboriginal Parties, state and local government agencies and other groups. The extent to which this educational support is aimed at providing the administrative, political, and management skills sought by this recommendation is unclear.*

**Queensland** implemented legislative provisions, as outlined in the Change the Record report, which require adequate training, support and advice be made available to Aboriginal and Torres Strait Islander organisations who are providing services and building capacity. Queensland noted in their 1997 implementation report that general policy directed towards improving the participation, education and training of Aboriginal and Torres Strait Islander people had been implemented. TAFE in Queensland offers specific Aboriginal and Torres Strait Islander award courses from the Certificate through to Associate Diploma levels.


Currently, the Department of Local Government, Racing and Multicultural Affairs provides a Capacity Building Program that centrally administers culturally appropriate programs to build the administrative and management skills of councillors and staff in Queensland's Aboriginal and Torres Strait Islander councils. Programs are offered on such skills as legislative amendments, financial management, and meeting procedures. The Department of Local Government, Racing and Multicultural Affairs also gives preference to candidates from Aboriginal and Torres Strait Islander local governments when awarding scholarships to undertake accredited training programs and has also awarded assistance packages to staff from Aboriginal and Torres Strait Islander councils.

 *Queensland has implemented Recommendation 202 through the Department of Local Government, Racing and Multicultural Affairs Capacity Building Program and other initiatives.*


In **South Australia**, the Government has partnered with Flinders University and an international presenting team to deliver Aboriginal Nation Building courses to South Australian Aboriginal and Torres Strait Islander groups. South Australia's first three Aboriginal and Torres Strait Islander Regional Authorities participated in the workshops in 2016, and the Government is committed to making the program available more broadly across the state to support steps towards a possible Treaty with its First Nations peoples.

 *South Australia has implemented Recommendation 202 through the Aboriginal Nation Building program.*


No record of legislation or policy that has been implemented to address this recommendation was identified for **Western Australia**, or **Tasmania**. However, the Western Australian Government noted that it continues to support Aboriginal and Torres Strait Islander education and training committees aligned with TAFE colleges and campuses across the State.

 *The Tasmanian and Western Australian governments have not implemented Recommendation 202 as no evidence has been provided as to whether appropriate training programs have been offered to Aboriginal and Torres Strait Islander people in leadership positions.*

The **Northern Territory** Government routinely organises training in governance and related topics for the elected members of regional councils, the majority of whom are Aboriginal and Torres Strait Islander. The Northern Territory Government has indicated that it prioritises training for elected members of regional councils and provides ongoing governance support during their term of office. However, the Northern Territory Government has not specifically earmarked training for Aboriginal and Torres Strait Islander candidates.

 *The Northern Territory has mostly implemented Recommendation 202 by providing elected members of regional councils with training but has not specifically earmarked training for Aboriginal and Torres Strait Islander candidates.*

The **Australian Capital Territory's** Skills Canberra program provides government funding for training courses in administrative, leadership, government and management skills that can be accessed by the members of the Aboriginal and Torres Strait Islander Elected Body, Aboriginal and Torres Strait Islander organisations involved in the delivery of services to Aboriginal and Torres Strait Islander people, and workers of other Aboriginal and Torres Strait Islander community organisations. The Aboriginal and Torres Strait Islander Elected Body also receives specific training and guidance on governance, ethics and conflicts of interest. The Australian Capital Territory also provides specific Aboriginal and Torres Strait Islander focused focus training to Aboriginal trainees in the public sector, provided by Australian Indigenous Leadership Centre, Baringa Childcare Centre and the National Centre for Indigenous Studies (Australian National University).

 *The Australian Capital Territory has implemented Recommendation 202 as training courses in administrative, leadership, government and management skills have been offered to members of the Aboriginal and Torres Strait Islander Elected Body. Additionally, specific Aboriginal and Torres Strait Islander focused focus training is offered to Aboriginal trainees in the public sector*

#### **Additional commentary**

More recently, the **New South Wales** Government noted that the Aboriginal Community Development Program consulted and negotiated with local communities to identify local infrastructure needs and to develop appropriate plans and agreements that reflect community needs and aspirations.

### **Recommendation 203**

*That the highest priority be accorded to the facilitation of social, economic and cultural development plans by Aboriginal communities, and on a regional basis, as a basis for future planning of:*

- a. Economic development goals;*
- b. Training, employment and enterprise projects;*
- c. Community Development Employment Project (CDEP schemes);*
- d. The provision of services and infrastructure; and*
- e. Such other social and cultural needs as are identified.*

#### **Background information**

The RCIADIC Report noted Aboriginal and Torres Strait Islander people need to be given the opportunity to make decisions about their lives, children, culture, education and the protection of their sacred sites.

#### **Responsibility**

The Commonwealth, and all State and Territory governments have responsibility for this recommendation, as both levels of government are responsible for improving the economic, social and cultural status of Aboriginal and Torres Strait Islander people.

### Key actions taken and status of implementation


The **Commonwealth** Government has addressed Recommendation 203 via the following programs and policy actions. As required by the *Aboriginal and Torres Strait Islander Commission Act 1989*, all Regional Councils were required to formulate and revise a Regional Plan for improving the economic, social and cultural status of Aboriginal and Torres Strait Islander residents in their regions. As noted in the *1995-96 Annual Report*, at the time the report was prepared, Regional Councils were still preparing and revising their regional plans.

The Stronger Futures policy – implemented in 2010 – included directives which were aimed at improving government engagement with Aboriginal and Torres Strait Islander communities and improving the coordination of funding and services for Aboriginal and Torres Strait Islander communities.

The Culture and Capability Programme works to support engagement with, and the expression and conservation of Aboriginal and Torres Strait Islander culture, and to promote broader understanding and acceptance. It also aims to increase Aboriginal and Torres Strait Islander people's participation in the social and economic life of Australia through strengthening the capability, governance and leadership of people, organisations, and communities. PM&C administered \$63 million of funding in 2015/16 and \$60 million in 2016/17 to communities through this program.

PM&C is also supporting the implementation of the Aboriginal and Torres Strait Islander-led Empowered Communities initiative in eight regions across Australia. This initiative seeks to identify community needs, priorities and aspirations, and articulate long-term Regional Development Agendas that address social, economic, and cultural development which will guide government investment. The Commonwealth has contributed \$14.4 million over three years to the end of June 2019 to assist in the coordination and implementation of the initiative.

The Community Development Programme (CDP) (which commenced in July 2015) supports job seekers in remote Australia to build skills, address barriers, and contribute to their community through a range of activities. Activities are broad and flexible, and delivered in consultation with local communities. For example, topics include budgeting, language, literacy and numeracy. The Community Development Programme allows activities to be designed to address the needs of communities. The Minister for Indigenous Affairs has announced as part of the 2017-18 Budget that consultation will begin on a new employment and participation model for remote Australia and communities will be involved in this process.


 *While the Commonwealth has taken some action towards implementing Recommendation 203, higher priority needs to be given to facilitation of social, economic and cultural development plans for Aboriginal and Torres Strait Islander communities to fully implement this recommendation.*

In 1993 **New South Wales** reported that the state supported this recommendation. The Department of Aboriginal Affairs has participated in pilot regional planning programs involving the cooperation of NSW Government agencies through the NSW Coordinating Committee for Services Provided to Aborigines.


In addition, the Aboriginal Community Development Program has consulted and negotiated with local communities to identify local infrastructure needs and to develop appropriate plans and agreements that reflect community needs and aspirations. The Partnership Community Program has also aimed to improve service delivery and strengthen community well-being through partnerships between government and Aboriginal communities. OCHRE includes a Local Decision Making initiative, which supports community and government to negotiate formal agreements (accords) on issues of mutual interest. Accords can cover the design and delivery of government services in priority areas identified by the community.

In 2014 the New South Wales Government allocated \$8 million to the Connected Communities Healing and Wellbeing Model. The goal of this program is to provide support and assistance in addressing issues of historic trauma and oppression for Aboriginal students, their families and their communities. The model includes opportunities for local Aboriginal community members to broaden their knowledge

and skill base in youth work, to increase their employability and to enable them to assist students to maximise their educational experience.

 *New South Wales has implemented Recommendation 203 through a number of initiatives and programs aimed at Aboriginal social, economic and cultural development.*


The **Victorian** Government noted in their 1994 implementation report that a number of training plans were developed for Aboriginal and Torres Strait Islander people. These included the 1994 Koori Industry Training Plan, and regional development plans established by Regional Councils of ATSIC. The Victorian Government's Aboriginal Affairs policy statement in 1992 also identified the promotion of the economic development of Aboriginal and Torres Strait Islander people as a priority. As noted in AJA 3, the Victorian Government has continued a consultative approach to the development of social, economic and cultural development plans for Aboriginal and Torres Strait Islander people. The *Victorian Aboriginal Affairs Framework 2013-18* includes as Strategic Action Areas education and training, and economic participation. Additionally, Aboriginal Affairs Victoria contributed to the existing infrastructure of the Victorian Aboriginal Community through the Aboriginal Capital Projects Program in 1995. Other social and cultural needs have been facilitated for the Aboriginal and Torres Strait Islander community.

 *Victoria has implemented Recommendation 203 with a number of initiatives aimed at Aboriginal and Torres Strait Islander social, economic and cultural development.*


At the time of the 1997 implementation report, **Queensland** TAFE employed nine Aboriginal and Torres Strait Islander Field Officers and two Community Development Co-ordinators to assist communities gain access and funding to vocational education and training.

Currently, all local governments, including Aboriginal and Torres Strait Islander local governments, in Queensland are required to prepare a five-year corporate plan, a long-term asset management plan and an annual operational plan. While cultural development plans are not prepared under the Queensland planning system, the *Queensland Planning Act 2016* (Qld) requires entities performing planning and development functions under the Act to perform the function in a way which includes "valuing, protecting and promoting Aboriginal and Torres Strait Islander knowledge, culture and tradition".

The Department of Local Government, Racing and Multicultural Affairs South East Queensland Regional Plan also supports regional actions that recognise and reflect cultural heritage management and the economic and social needs of Aboriginal and Torres Strait Islander communities in land use planning through consultation and engagement with those communities. The Department of Local Government, Racing and Multicultural Affairs is currently leading the preparation of a Dunwich (Goompi) Master Plan, as part of the Government's North Stradbroke Island Economic Transition Strategy, as well as a structure plan for One Mile on North Stradbroke Island through a collaborative partnership with the Quandamooka Yoolooburrabee Aboriginal Corporation, the Native Title Prescribed Body Corporation for the Quandamooka People and the Redland City Council.


 *Queensland has implemented Recommendation 203 with a number of initiatives aimed at Aboriginal and Torres Strait Islander social, economic and cultural development.*

**South Australia** noted in the 1994 implementation report that the government supported this recommendation. Currently, the Government seeks to address Recommendation 203 through its new, tiered approach to governance and leadership and engagement with Aboriginal and Torres Strait Islander leaders and communities.


 *While supportive of Recommendation 2013, South Australia does not appear to have taken any relevant steps towards addressing it.*

The Aboriginal Affairs Planning Authority (AAPA) in **Western Australia** worked closely with the Commonwealth Government in the years following the release of the RCIADIC report to develop a model community plan to further develop community infrastructure and services in remote Aboriginal and Torres Strait Islander communities. The overarching goal for these community plans was to focus


on increased planning and monitoring of Aboriginal and Torres Strait Islander services throughout Western Australia.

 *Western Australia has taken limited steps towards implementing Recommendation 203. As such, Recommendation 203 is partially implemented*

In **Tasmania**, the government stated in their 1993 implementation report that this was an extremely important issue and as a consequence, the Aboriginal and Torres Strait Islander Commission Regional Planning process has played a large role in the development of Aboriginal and Torres Strait Islander facilities. However, the Regional Council's Planning activities did not necessarily align with Government agencies, with the Tasmanian government yet to receive a completed regional plan as of 1997. Currently, the Tasmanian Government is committed to supporting the Cape Barren Island community to achieve its short, medium and long-term aspirations, with a particular focus on housing and infrastructure.

 *Tasmania has taken limited steps towards implementing Recommendation 203. As such, Recommendation 203 is partially implemented.*


The 1995 implementation report notes that agencies in the **Northern Territory** have previously been required to assist in community planning through the provision of information to ATSIC regional councils in the development of regional plans. This includes the Department of Education's Aboriginal Development Unit which is involved with developing training plans for organisations. The Regional Economic Development Strategies developed by the Department of Industries and Development now include Aboriginal and Torres Strait Islander communities.

 *The Northern Territory has previously taken steps towards implementing Recommendation 203. However, it does not appear that this work still occurs.*

The **Australian Capital Territory** Aboriginal and Torres Strait Islander Advisory Council was established following the release of the RCIADIC report to incorporate a range of Aboriginal and Torres Strait Islander's aspirations, plans and needs into ACT Government. Additionally, a Departmental Advisory Committee on Aboriginal and Torres Strait Islander Education was formed within the Department of Education to provide advice to Aboriginal and Torres Strait Islander communities on education opportunities.

Since this time, the Australian Capital Territory Government has formed the ACT Aboriginal and Torres Strait Islander Elected Body. This body is democratically elected to represent views of Aboriginal and Torres Strait Islander people in the ACT. It provides direct advice to the ACT Government on a broad range of issues.

Although no discreet social, economic and cultural development plan has been developed, the ACT Aboriginal and Torres Strait Islander Elected Body has assisted in the development of and agreed to the ACT Aboriginal and Torres Strait Islander Agreement 2015-18. This covers priorities of the Aboriginal and Torres Strait Islander community.

 *The Australian Capital Territory has implemented Recommendation 203 through the development of the ACT Aboriginal and Torres Strait Islander Agreement 2015-18.*

### **Additional commentary**

Historically, from the **Commonwealth** Government's perspective, the emphasis of Aboriginal and Torres Strait Islander economic development objectives has been to encourage greater employment. PM&C is in the process of broadening their Aboriginal and Torres Strait Islander economic development goals with an emphasis on broad economic participation and wellbeing as key outcomes. A practical aim of this is to increase choice for Aboriginal and Torres Strait Islander people to participate in and contribute to the broader Australian economy through a range of opportunities, including employment, business ownership, and access to land. PM&C noted that the economy is a powerful tool that can boost living standards and opportunities to build wealth for those that participate. Policies that increase choices will empower more Aboriginal and Torres Strait Islander people to participate in the economy and thereby improve their material wellbeing.

PM&C is developing the Indigenous Business Sector Strategy, a 10-year action plan aimed at improving the way Aboriginal and Torres Strait Islander businesses are supported to increase in number and strength across Australia. The Strategy is aimed at entrepreneurs at the ideas stage through to those businesses trying to grow and diversify, and is being developed in consultation with a wide range of Aboriginal and Torres Strait Islander entrepreneurs and businesses across Australia. The Strategy is expected to be implemented in 2017. Indigenous Business Australia is also supporting businesses through provision of business and capital support to early-stage Aboriginal and Torres Strait Islander business and entrepreneurs.

## Recommendation 204

*The preparation of community development plans should be a participative process involving all members of the community, and should draw upon the knowledge and expertise of a wide range of professionals as well as upon the views and aspirations of Aboriginal people in the local area. It is critical that the processes by which plans are developed are culturally sensitive, unhurried and holistic in approach, and that adequate information on the following matters is made available to participants:*

- a. The range of Aboriginal needs and aspirations;*
- b. The opportunities created by government policies or programs;*
- c. The opportunities and constraints in the local economy;*
- d. The political opportunities to influence the local arena.*

### Background information

The RCIADIC Report emphasised the importance of community planning having regard to a community's needs and aspirations on economic options, law and justice issues, education and health services, in order for self-determination and empowerment to become a reality.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. Both the Commonwealth, and the States and Territories are responsible for increasing the participation of members of the community in order to develop community plans.

### Key actions taken and status of implementation

The policy of the **Commonwealth** Government's ATSIC on community planning was aimed at encouraging Aboriginal and Torres Strait Islander communities and community-based organisations to adopt a strategic planning approach to their social, economic, physical and cultural development. In 1995-96, Regional Councils distributed funding to relevant community organisations for community planning activities.


The Stronger Futures policy is aimed at enhancing government involvement and cooperation with Aboriginal and Torres Strait Islander communities to better manage funding and services for Aboriginal and Torres Strait Islander communities.

The Department of Prime Minister and Cabinet has also contributed to the implementation of Recommendation 204 through a range of initiatives, which are outlined in the response to Recommendation 203, such as the Community Development Program and the announcement by the Minister for Indigenous Affairs in the 2017-18 Budget.


 *Recommendation 204 has been partially implemented at the Commonwealth level. Further progress is still being made towards ensuring that the development of plans is a participative process with Aboriginal and Torres Strait Islander communities.*

The **New South Wales** government reported that as of 1993 they had already completed this recommendation through Aboriginal Affairs' work to support community organisations developing plans. In keeping with the principle of self-determination, the NSW Government has also sought to ensure that plans are community-owned and developed initiatives such as the Aboriginal Community

Development Program and the Partnership Community Program, currently through the Local Decision Making under OCHRE (the NSW Government's community-focused plan for Aboriginal affairs).


 *New South Wales has implemented Recommendation 204 by ensuring Aboriginal people participate in bodies that make decisions which affect their communities.*

In **Victoria**, Aboriginal and Torres Strait Islander individuals were involved in the development of the *Aboriginal Affairs Framework 2013-2018* and the *AJA*. The Victorian Aboriginal Education Association provides advice to the Office of Training and Further Education on course planning and other supports. In addition, a Koori Advisory Committee was established in each TAFE college that has a significant Aboriginal and Torres Strait Islander community. In the health space, the Koori Health Unit encouraged consultation between the former Department of Health and Community Services and local community organisations on the health perspectives of community plans. Funding has previously been provided for research and development officer positions for the Victorian Tripartite Council of Koori Health. Established by the Office of Youth Affairs, Regional Youth committees feature in eight Victorian regions. These committees consider Aboriginal and Torres Strait Islander issues in light of developing Youth Strategy Plans to help co-ordinate service delivery to young people and their families.


 *Victoria has implemented Recommendation 204 by ensuring Aboriginal and Torres Strait Islander people participate in bodies that make decisions which affect their communities.*

**Queensland** reported in 1997 that it supports this recommendation and is working towards formulating community development plans with the Aboriginal and Torres Strait Islander Commission. Currently, all local governments in Queensland, including Aboriginal and Torres Strait Islander local governments, are required to comply with the local governments' principles under the *Local Government Act 2009* (Qld), which include: transparent and effective processes, decision-making in the public interest, democratic representation, social inclusion, and meaningful community engagement.

Currently there is no requirement in Queensland's Local Government legislation for Councils to have community development plans. However, in the planning process generally, Councils must comply with the Local Government principles, which include community consultation and social inclusion.


 *Queensland has mostly implemented Recommendation 204 by requiring its local governments to undertake meaningful community engagement, and consider public interest and social inclusion in its decision-making and planning process generally. However, no evidence of the preparation of community development plans (which including the views and aspirations of Aboriginal people in the local area) have been provided. Further there is no evidence that similar community development plans have been developed in a culturally sensitive, unhurried and holistic in way.*

**South Australia** reported in the 1994 implementation report that agencies assisting in the development of these plans observe the principles outlined in this recommendation. In 2008, Aboriginal and Torres Strait Islander community structure plans were developed for certain APY and Aboriginal Lands Trust communities, including the framework for land-use planning and development considerations in South Australia's Aboriginal and Torres Strait Islander communities. They provide each community and the land-holding authority with a guide to future growth and development, particularly housing, infrastructure and other integrated development by communities and state government agencies. In addition, the Government is committed to ensuring Aboriginal and Torres Strait leaders have a voice through its new, tiered approach to governance and leadership.


 *South Australia has implemented Recommendation 204 by requiring agencies to observe the principles contained in this recommendation.*

Similar to the **Western Australian** response to Recommendation 203 and 201, the Aboriginal Affairs Directorate ensured maximum involvement of Aboriginal and Torres Strait Islander people in regional councils. In this vein, Community Development and Funding Officers were placed in all District Offices; however, it was stated that more work needs to be done in order to ensure that these Officers are present in more locations across the State.




 *Western Australia has partially implemented Recommendation 204 by encouraging maximum involvement of Aboriginal and Torres Strait Islander people in regional councils and employing Community Development and Funding Officers. However, it is not clear whether these principles have been used in developing community development plans.*

**Tasmania** noted in the 1993 implementation report that they considered this recommendation to be a matter for ATSIC and therefore the only action in response to this recommendation should be the provision of advice and opinion. As per their response to Recommendation 203, the Tasmanian Government is committed to supporting the Cape Barren Island community to achieve its short, medium and long-term aspirations, with a particular focus on housing and infrastructure.

 *The Tasmanian government has not implemented Recommendation 204 as there is no evidence of relevant action taken in response.*


Aboriginal and Torres Strait Islander communities were reported in the 1995 implementation report to be more heavily involved in the **Northern Territory's** former Department of Lands, Housing and Local Government, and that these Aboriginal and Torres Strait Islander communities play a vital role in monitoring the effectiveness of community plans, negotiating agreements and developing principles and protocols for community planning. The Aboriginal Development Unit within the Department of Education was involved in many planning exercises which worked to ensure that there was continuity in plan maintenance and future development. Input from Aboriginal and Torres Strait Islander groups and councils was also sought and incorporated by the Department of Industries and Development in the development of Regional Economic Development Strategies. The Northern Territory Government has also indicated that it is implementing a policy of Local Decision Making and through the Department of the Chief Minister, in consultation with communities and peak bodies.

 *The Northern Territory has implemented Recommendation 204 by ensuring Aboriginal and Torres Strait Islander communities participate in the development of community development plans.*

The **Australian Capital Territory's** former Aboriginal and Torres Strait Islander Advisory Council represented the Aboriginal and Torres Strait Islander community in the ACT Government. This council provided input into the plans developed by the ACT Planning Authority. Within the ACT Department of Education and Training, and the Canberra Institute of Technology, the Aboriginal Education Strategic Initiative Plan supplemented, at the time of the 1997 implementation report, mainstream educational funding arrangements, based on the priorities of each education sector. Priority sectors and subsequent individual institution operational plans were developed in consultation with various Aboriginal and Torres Strait Islander organisations.

Since this time, the ACT Aboriginal and Torres Strait Islander Elected Body has been established to ensure maximum participation by Aboriginal and Torres Strait Islander people in the ACT in the formulation, coordination and implementation of Government policies and services that affect them.

The Elected Body receives, and passes on to the Minister, the views of Aboriginal and Torres Strait Islander people living in the ACT on issues of concern to them. Although there is no discreet community development plan for the Aboriginal and Torres Strait Islander community in the ACT, the Whole of Government Aboriginal and Torres Strait Islander Agreement articulates key focus areas identified by the ACT Aboriginal and Torres Strait Islander community, ACT Government, service partners and Aboriginal and Torres Strait Islander organisations. This Government Aboriginal and Torres Strait Islander Agreement fulfils part of Recommendation 204.

 *The Australian Capital Territory has implemented Recommendation 204 through the formation of the ACT Aboriginal and Torres Strait Islander Elected Body and the development of the Whole of Government Aboriginal and Torres Strait Islander Agreement.*

## 8.2 Accommodating difference: relations between Aboriginal people and non-Aboriginal people (205-213)

### Recommendation 205

That:

- a. *Aboriginal media organisations should receive adequate funding, where necessary, in recognition of the importance of their function; and*
- b. *All media organisations should be encouraged to develop codes and policies relating to the presentation of Aboriginal issues, the establishment of monitoring bodies, and the putting into place of training and employment programs for Aboriginal employees in all classifications.*

#### Background information

The RCIADIC Report considered that Aboriginal and Torres Strait Islander involvement in media would have a considerable impact on facilitating a broader understanding of Aboriginal and Torres Strait Islander affairs.

#### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation. Media organisations may receive funding from both the Commonwealth, and State and Territory governments.

#### Key actions taken and status of implementation

The **Commonwealth** Government has undertaken the following actions in response to Recommendation 205. In 1993, ATSIC adopted a new Broadcasting Policy which enabled Aboriginal and Torres Strait Islander people to control their own broadcasting and communications services, and production of their own linguistically and culturally relevant programs.

The National Indigenous Media Association of Australia (NIMAA), as part of the Broadcasting for Remote Aboriginal Communities Scheme, was given priority for consolidating its position. One-off capital grants were also provided to aspiring licences and other broadcasters.


Several co-regulatory broadcasting codes of practice, developed by broadcasting industry groups and registered by the Australian Communications and Media Authority (ACMA) acknowledge the importance of respectful, accurate and sensitive portrayal of culture and customs of Aboriginal and Torres Strait Islander people and, in some cases, encourage consultation with Aboriginal and Torres Strait Islander media organisations:

- The community radio and community television codes of practice include specific provisions containing protocols regarding Aboriginal and Torres Strait Islander content and representation.
- The commercial radio and commercial television codes of practice refer to guidelines or advisory notes relevant to the portrayal of Aboriginal and Torres Strait Islander people, which are available online but do not form part of the codes of practice.

In respect of the national broadcasters, the Australian Broadcasting Corporation and the Special Broadcasting Service:

- The Australian Broadcasting Corporation (ABC) has an Editorial Guidance Note on 'ABC Indigenous Content'.
- The Special Broadcasting Service (SBS) code of practice includes specific provisions regarding Aboriginal and Torres Strait Islander content and representation. Under paragraph 10(1)(j) of the *Special Broadcasting Service Act 1991*, the SBS Board is required to develop a code of practice relating to programming matters and to notify this codes to the ACMA. This code is called the SBS Codes of Practice 2014.


The SBS receives funding from the Commonwealth to maintain the delivery of the National Indigenous Television Service (NITV), a service which promotes Aboriginal and Torres Strait Islander culture and issues through community developed content. The funding is not directly allocated to NITV. The Department of Prime Minister and Cabinet has administered funding of up to \$63.3 million from 2017-18 to 2019-20 for Aboriginal and Torres Strait Islander broadcasting and media organisations.

 *Recommendation 205 has been fully implemented at the Commonwealth level through initiative such as ATSIIC's Broadcasting Policy, the consolidation of NIMAA, and relevant co-regulatory broadcasting codes of practice registered by the ACMA and related guidelines and advisory notes, and guidance notes and codes developed by the ABC and SBS.*

**New South Wales** stated in 1993 that it supports this recommendation, as evidenced by funding allocated through the NSW Film and Television Office for Aboriginal content. Funding was provided based on merit, covering a broad range of issues pertaining to the Aboriginal population.

Since 2014-15, the NSW Government has provided over \$5.7 million for programs and projects that explore a diversity of Aboriginal arts and cultural practice, including organisational funding and screen productions with Aboriginal key creatives or significant Aboriginal content. Create NSW has also invested over \$3.8 million in Aboriginal Arts and Culture under the NSW Aboriginal Arts and Cultural Strategy 2010-2014.


Create NSW has also developed Aboriginal Arts and Cultural Protocols. Funded screen productions involving Aboriginal content or participation must comply with Screen Australia's protocols. Create NSW is also a member of MediaRING – a volunteer association of industry and screen organisations. It brings together broadcasters, Government media agencies and Aboriginal organisations, among others, to work together to create opportunities for Aboriginal people working in the media.


 *New South Wales has implemented Recommendation 205 by providing funding to Aboriginal media organisations and implementing appropriate protocols under Create NSW.*

In 1994, **Western Australia** was in the process of expanding the operation of Aboriginal and Torres Strait Islander broadcasting stations in Perth, Kununurra, Halls Creek, Fitzroy Crossing and Broome. Western Australia reported that there had been increased funding to Aboriginal and Torres Strait Islander media organisations, however more funding needed to be provided in order to fully achieve the desired outcomes. Western Australia also noted that this is an issue primarily relating to action required by the Commonwealth Government.

In their implementation reports, **Victoria** (1994), **Tasmania** (1993), **Queensland** (1997), **South Australia** (1994) **the Northern Territory** (1997) and the **Australian Capital Territory** (1997) all noted that this recommendation is not a jurisdictional responsibility.

However, the Australian Capital Territory has noted that it currently funds the community radio station 2XX to provide programming to Aboriginal and Torres Strait Islander people.

 *Victoria, Queensland, Western Australia, Tasmania, South Australia, and the Northern Territory, have not implemented Recommendation 205.*

 *The Australian Capital Territory has taken limited steps towards implementing Recommendation 205, through funding of Aboriginal and Torres Strait Islander content on community radio.*

### **Additional commentary**

With regards to the **Commonwealth** Government's response to this recommendation, the ACMA has advised that the NIMAA was replaced by a peak body called the Australian Indigenous Communications Association. However, in November 2016, the Australian Indigenous Communications Association (AICA) decided to wind-up its operations through a process of voluntary liquidation. Another representative body, the Indigenous Remote Communications Association, is currently expanding its role and representation to become the national peak body for the Aboriginal and Torres Strait Islander broadcasting, media and communications industry.

**Queensland** stated in 1997 that it supports this recommendation, however notes that this is a matter for the Commonwealth Government and media organisations. The Queensland Government noted an intention to develop codes of practice and employment in the media industry in line with this recommendation by collaborating with the then Department of Family Services and Aboriginal and Islander Affairs, and the then Australian Journalists Association.

**Western Australia** noted that there is a significant number of Aboriginal and Torres Strait Islander media organisations across Western Australia, indicating that sufficient support is being provided in a competitive media industry. It has also been noted that many non-Aboriginal and Torres Strait Islander media organisations have developed relevant codes of conduct that guide the way they present all issues, including those pertaining to Aboriginal people

## Recommendation 206

*That the media industry and media unions be requested to consider the establishment of and support of an annual award or awards for excellence in Aboriginal affairs reporting to be judged by a panel of media, union and Aboriginal representatives.*

### Background information


The RCIADIC Report identified that incentivising the reportage of Aboriginal and Torres Strait Islander issues and promoting it as a worthy field of journalistic endeavour would go some way towards encouraging a greater media uptake of Aboriginal and Torres Strait Islander affairs, and may catapult Aboriginal and Torres Strait Islander issues to the forefront of Australia's public policy agenda.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. This recommendation requires both the Commonwealth, and the States and Territories contribute in order to achieve the desired outcomes.

### Key actions taken and status of implementation


The **Commonwealth** Government's Council for Aboriginal Reconciliation sponsored a special award at the 1992-93 United Nations Association of Australian Media Peace Awards in support of this recommendation, which was sponsored again in 1995. The Walkley Award has recognised excellence in the coverage of Aboriginal and Torres Strait Islander affairs since 1997.

 *Recommendation 206 has been implemented through the awards which have been established.*

In **New South Wales** the Media Entertainment and Arts Alliance Regional media awards contain categories that encompass reporting on Aboriginal issues. Additionally, the Kennedy Awards established the John Newfong Award for "Outstanding Reporting of Indigenous Affairs", alongside the Multicultural and Indigenous Media Awards.

 *New South Wales has implemented Recommendation 206 by establishing and supporting annual awards for excellence in Aboriginal reporting. I*

**Victoria** does not have any current programs or policies that relate directly to Recommendation 206. However, the Victorian Government did note that Aboriginal Victoria actively promotes its programs, policies and events regarding Aboriginal Affairs to mainstream media to advance Aboriginal Affairs and increase recognition and appreciation of Aboriginal culture.

 *Victoria has not taken any steps to directly address Recommendation 20. However, Victoria did note that Aboriginal Victoria actively promotes its programs, policies and events regarding Aboriginal Affairs to mainstream media.*

The **Queensland** Clarion Awards for journalism introduced a specific category for reporting on Aboriginal and Torres Strait Islander reporting. Additionally, the A V Myer Indigenous Award for Exceptional Talent acknowledges Aboriginal and Torres Strait Islander talent in the screen arts and broadcast sector, alongside the Red Ochre Award, and the Telstra National Aboriginal and Torres Strait Islander award.

- *Queensland has implemented Recommendation 206 by including a specific category for reporting on Aboriginal and Torres Strait Islander affairs in the Clarion Awards.*

In **South Australia, Tasmania, and the Northern Territory**, the Media Entertainment and Arts Alliance Regional media awards contain categories that encompass Aboriginal and Torres Strait Islander reporting. Tasmania and the Northern Territory note that this recommendation is a consideration for the Commonwealth government, not the States and Territories.

- *South Australia, Tasmania and the Northern Territory have implemented Recommendation 206 via the Media Entertainment and Arts Alliance Regional media awards.*

In **Western Australia**, the Louis St John Johnson Media Awards Scheme was established to annually judge and award prizes in Aboriginal and Torres Strait Islander affairs reporting. The Media Entertainment and Arts Alliance Regional media awards also encompass Aboriginal and Torres Strait Islander reporting. Although the Louis St John Johnson media award is no longer funded, the Western Australian Government has sponsored a broader category award in 2017 for the Best Social Equity Report.

- *Western Australia had implemented Recommendation 206, with the previous Louis St John Johnson media award. However, this award is no longer funded. As this award is no longer funded, Western Australia is not considered to have implemented Recommendation 206, noting that Western Australia does not consider this to be a recommendation applicable to the State.*

The **Australian Capital Territory** noted in 1997 that this is not a state/territory responsibility and has therefore not taken any action in response to this recommendation.

- *The Australian Capital Territory has not made any progress towards implementation of Recommendation 206, noting that it considers it to be outside of its responsibilities.*

### Additional commentary

With regards to the **Commonwealth** Government's response to Recommendation 206, the ACMA advised that the NAIDOC awards, while not specifically media-focused, provide scope for journalists to be recognised for their role in raising the profile of Aboriginal and Torres Strait Islander issues. The SBS' *Spirit Initiative* is a professional development opportunity developed by NITV in partnership with the Indigenous Remote Communications Association. It is awarded to an Aboriginal and Torres Strait Islander content maker and offers a work placement at NITV, conference attendance and support for the production of Aboriginal and Torres Strait Islander content.

## Recommendation 207

*That institutions providing journalism courses be requested to:*

- Ensure that courses contain a significant component relating to Aboriginal affairs thereby reflecting the social context in which journalists work; and*
- Consider, in consultation with media industry and media unions, the creation of specific units of study dedicated to Aboriginal affairs and the reporting thereof.*

### Background information


A collaborative approach between the education provider and the Aboriginal and Torres Strait Islander community will help to ensure the accuracy and quality of reporting on Aboriginal and Torres Strait Islander affairs.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. This recommendation largely relates to the Commonwealth, given the level of higher education funding provided by the Commonwealth; however, cooperation from the States and Territories is required to achieve full implementation.

### Key actions taken and status of implementation

In 1995, the **Commonwealth** Government's Council for Aboriginal Reconciliation commissioned the production of a video to provide training in cultural awareness and background information for cadet journalists and journalism students. The video was distributed for free to journalism and communications departments in tertiary educations and to media organisations for training purposes. Between 2005 and 2009, the Department of Immigration and Citizenship, in partnership with several universities, Media Monitors and the SBS funded the Journalism in Multicultural Australia Project (now the Reporting Diversity Project) which was established to raise awareness of the way multicultural affairs are reported in the Australian media so as to identify ways of improving journalistic practice.


 *Recommendation 207 has been partially completed. The Department of Education notes that, despite their government funding, Australian universities are fundamentally autonomous institutions that self-accredit their course offerings, and that the Commonwealth Government does not intervene in their academic or corporate policies and procedures.*

**New South Wales** reported in 1993 that this recommendation primarily refers to Commonwealth responsibilities, as the federal Department of Education is responsible for Universities. As of 1993, NSW TAFE did not run any journalism courses.


 *New South Wales has not addressed Recommendation 207, noting that they consider it to be outside of its responsibilities.*

The **Victorian** Department of Education and Training advocates that all discipline areas (not limited to journalism) should contain components relating to cultural understanding, Aboriginal history and perspectives, reflecting the wider social context in which students study, work and live in Victoria.


A formal partnership between nine Victorian universities and the Victorian Aboriginal Education Association Incorporated has been established through the Toorong Marnong Victorian Higher Education Accord. The Toorong Marnong Higher Education Accord is jointly auspiced by Victorian Aboriginal Education Association Incorporated and the Victorian Vice-Chancellors' Committee. It aims to develop ways in which the nine Victorian universities can co-operate to enhance their engagement with Aboriginal and Torres Strait Islander communities.

 *Victoria has partially implemented Recommendation 207, with broad support and advocacy for courses that contains components relating to cultural understanding, Aboriginal and Torres Strait Islander history and perspectives. However, Victoria has not implemented any specific policies or programs that relate directly to journalism or media training content.*

In **Queensland**, the University of Queensland's School of Journalism provided students with the opportunities to go on rural placements as a part of Reporting Indigenous Issues courses. The Queensland 1993 implementation report stated that this recommendation is a Commonwealth responsibility.


 *Queensland has partially implemented Recommendation 207 by providing students with the opportunity to go on rural placements as part of a Reporting Indigenous Issues course but has not addressed elements of parts (a) and (b) in its response.*

The University of **South Australia's** Bachelor of Arts (Journalism) degree specifically focuses on the reporting of Aboriginal and Torres Strait Islander affairs through a number of second and third year subjects. These courses cover racism in the media and how to report on Aboriginal and Torres Strait Islander affairs effectively. Journalism students are also required to undertake an Australian Studies class which discusses Australia's past treatment of Aboriginal and Torres Strait Islander people. However, South Australia considers that this is not a jurisdictional responsibility.


 *South Australia has fully implemented Recommendation 207 through the focus on Aboriginal and Torres Strait Islander affairs in journalism studies at the University of South Australia. Other universities in South Australia do not appear to offer a course on journalism studies.*

**Western Australia** has implemented this recommendation at the three universities which offer journalism courses. Each of these courses highlight Aboriginal and Torres Strait Islander issues with


the intent to discourage negative stereotyping. Specifically, Edith Cowan's journalism course includes three subjects relating to Aboriginal and Torres Strait Islander affairs. Curtin University's Centre for Aboriginal Studies offers three courses in Aboriginal and Torres Strait Islander studies and Murdoch University's Graduate Diploma in Journalism highlights Aboriginal and Torres Strait Islander issues.

 *Western Australia has fully implemented Recommendation 207, through the development of courses at three universities, which focus on Aboriginal and Torres Strait Islander affairs in journalism. Each of these courses highlights Aboriginal and Torres Strait Islander issues with the intent to discourage negative stereotypes.*


**Tasmania** noted in 1995 that this is not a state responsibility and has therefore not made any action in response to this recommendation.

 *Tasmania has not implemented Recommendation 207 and considers that it is outside of its responsibilities.*

The **Northern Territory** reported in 1997 that this recommendation has been implemented and "action is continuing" however the specific nature of this action was not specified.

 *The Northern Territory has partially addressed Recommendation 207. The Government considers that the recommendation is complete, but has not provided evidence of actions that it has taken to address the recommendation.*

The **Australian Capital Territory's** Aboriginal Studies and Media Course Frameworks were being reviewed in 1997 to give consideration to specific units of study aimed at Aboriginal and Torres Strait Islander affairs and reporting. Currently, all students journalism degrees offered in the Australian Capital Territory are required to reflect on the reporting of Aboriginal and Torres Strait Islander issues in the Australian media in the teaching of journalism ethics. In the past, the former chair of the Royal Commission into Indigenous Deaths in Custody, Senator Patrick Dodson has presented on issues surrounding the representation of Aboriginal and Torres Strait Islander people in politics and the media.

 *The Australian Capital Territory has implemented Recommendation 207 through the development of higher education courses and specific units of study, which focus on Aboriginal and Torres Strait Islander affairs in journalism.*

## Recommendation 208

*That, in view of the fact that many Aboriginal people throughout Australia express disappointment in the portrayal of Aboriginal people by the media, the media industry and media unions should encourage formal and informal contact with Aboriginal organisations, including Aboriginal media organisations where available. The purpose of such contact should be the creation of a better understanding, on all sides, of issues relating to media treatment of Aboriginal affairs.*

### Background information

The RCIADIC Report noted that there had been an increase in public awareness of the ignorance and prejudice faced by Aboriginal and Torres Strait Islander people, and that it is in the best interest of the media and Aboriginal and Torres Strait Islander organisations to form a mutual understanding of how Aboriginal and Torres Strait Islander people are to be presented in the media.

### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation, as they have joint responsibility for making these expectations clear to media organisations.

### Key actions taken and status of implementation

The **Commonwealth** Government's 1995-96 *Annual Report* noted that the Council for Aboriginal Reconciliation offered courses for journalists with the intent of raising cultural awareness.


The *SBS Act 1991* requires that members of its Community Advisory Committee have interests “relevant to, and an understanding of, ethnic, Aboriginal and Torres Strait Islander communities”.

Commercial Radio Australia’s Commercial Radio Guidelines March 2017 encourages commercial radio broadcasters to contact the Australian Indigenous Communications Association (AICA) for assistance on specific questions regarding the portrayal of Aboriginal and Torres Strait Islander people, noting that AICA has decided to wind-up its operations through a process of voluntary liquidation. Another representative body, the Indigenous Remote Communications Association, is currently expanding its role and representation to become the national peak body for the Aboriginal and Torres Strait Islander broadcasting, media and communications industry.


Free TV Australia’s Advisory Note on The Portrayal of Aboriginal and Torres Strait Islander Peoples encourages reporters, wherever practicable, to consult local Aboriginal and Torres Strait Islander groups when preparing news and current affairs.

The ABC’s Editorial Guidance Note: ABC Indigenous Content includes reference to consultation with Aboriginal and Torres Strait Islander organisations, including representative bodies and land councils. The SBS’ Code of Practice 2014 (revised March 2016) refers to consultation with Aboriginal and Torres Strait Islander people in the making of content about Aboriginal and Torres Strait Islander people.


The Community Radio Broadcasting Codes of Practice (October 2008) encourages licensees to consult with appropriate Aboriginal and Torres Strait Islander media organisations on appropriate forms of communication when producing programs focusing on Aboriginal and Torres Strait Islander people and issues. The Community Television Broadcasting Codes of Practice (June 2011) encourages licensees to seek appropriate advice on Aboriginal and Torres Strait Islander protocols and practices from Aboriginal and Torres Strait Islander community broadcasting sector organisations.

 *Recommendation 208 has been fully completed through the range of co-regulatory broadcasting codes of practice, which are evidence of the Commonwealth’s national leadership role in driving implementation of this recommendation.*

The 1993 implementation reported noted that, in response to this recommendation, the **New South Wales** Anti-Discrimination Board previously actioned: resolution of complaints of racial vilification made by Aboriginal people; negotiation with the police force and adoption of acceptable descriptions which work to avoid stereotyping of Aboriginal people involved in criminal or other incidents in the media, and; education sessions on racial vilification with media representatives. Vilification guidelines targeting the media were drafted in consultation with the media regarding the portrayal of Aboriginal people, groups and issues.

 *New South Wales has fully implemented Recommendation 208.*

The **Victorian** (1993), **South Australian** (1994), **Tasmanian** (1995) and **Australian Capital Territory** (1995) implementation reports noted that they support this recommendation however considered that the recommendation is not relevant to the States and Territories.

 *Victoria, South Australia, Tasmania, and the Australian Capital Territory have not taken action to address Recommendation 208, noting that they consider it to be outside of their responsibilities.*


The **Queensland** implementation report in 1994 noted that they did not believe the recommendation was relevant to the States and Territories. However, Screen Queensland’s Aboriginal and Torres Strait Islander Strategy 2016-2019 celebrates Aboriginal and Torres Strait Islander culture nationally and internationally through mainstream media and innovative platforms. Screen Queensland is a member of the Screen Diversity and Inclusion Network and MediaRING, an organisation that enhances career opportunities for Aboriginal and Torres Strait Islander Australians in the media.

 *Queensland has fully implemented Recommendation 208.*


In **Western Australia**, as of 1997 there was ongoing work into the implementation of this recommendation. The Telling Both Stories media forum developed by the Aboriginal Affairs Directorate in 1994 brought together representatives from Aboriginal and Torres Strait Islander



organisations and media, general media, unions and schools of journalism to foster relationships between these groups. This contact has been further strengthened through additional media forums in 1992 and 1994 by the Centre for Research and Culture and Communication at Murdoch University. Since this time, Western Australian universities teaching journalism have also included course content that highlights Aboriginal and Torres Strait Islander issues with the intent to discourage negative stereotypes.

 *Western Australia has fully implemented Recommendation 208.*

In the **Northern Territory**, funding was provided to Imparja Television to facilitate the broadcasting of Aboriginal and Torres Strait Islander specific content. Additionally, the Northern Territory's *Territory Business* magazine covers local Aboriginal and Torres Strait Islander stories and issues. The NT Government notes that this recommendation is a matter that only the media and Aboriginal and Torres Strait Islander representative can implement.

 *The Northern Territory has fully implemented Recommendation 208.*

## Recommendation 209

*That continuing support should be given to Aboriginal organisations such as the Aboriginal Arts Board in their endeavours to protect the interests of Aboriginal artists and to ensure the continuing expansion of the production and marketing of Aboriginal art and craft work.*

### Background information

The RCIADIC Report suggested that the production of Aboriginal and Torres Strait Islander art raises awareness of Aboriginal and Torres Strait Islander culture, beliefs and ways of seeing the world.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. The Commonwealth, and the States and Territories are both responsible for funding Aboriginal and Torres Strait Islander art-related organisations.

### Key actions taken and status of implementation

The **Commonwealth** Government's Australia Council adopted the National Aboriginal and Torres Strait Islander Arts Policy in May 1997. One of the objectives of this policy consisted of "developing better ways to support Aboriginal and Torres Strait Islander artists and art organisations". The DCA's IVAIS program also contributes to the implementation of Recommendation 209 (as discussed in the response to Recommendation 56).

The responsibilities of the Australia Council's former Aboriginal Arts Board continue to be delivered by the Council's Aboriginal and Torres Strait Islander Arts Strategy and Peer Assessment Panel.

- The Panel oversees the Council's policies, projects and programs that support and protect Aboriginal and Torres Strait Islander arts and culture. The Panel also considers the role of Aboriginal and Torres Strait Islander arts and culture and the cultural dimension of Aboriginal and Torres Strait Islander artistic expression as part of Australia's overall arts ecology.
- The Council's strategic initiatives support development of markets and audiences for Aboriginal and Torres Strait Islander arts nationally and internationally. These initiatives build the capacity of Aboriginal and Torres Strait Islander artists and arts organisations, enabling cultural exchange and intergenerational transfer of artistic and cultural knowledge. A key strategic initiative is the First Nations Audience and Market Development Strategy Framework, which encompasses both national and international markets.

 *Recommendation 209 has been mostly implemented through the National Aboriginal and Torres Strait Islander Arts Policy.*

**New South Wales** reported in 1993 that they have supported a number of Aboriginal arts organisations and cultural grants programs through the former Ministry for the Arts, since the release of the RCIADIC report, through the *New South Wales Regional Arts Fund*. Community liaison projects


between museums and communities for the re-development of exhibitions and management of Aboriginal cultural material have also been supported.

Currently, Create NSW invests in a range of programs that have effectively increased professional employment opportunities for Aboriginal arts workers. These include the Aboriginal Regional Arts Fund, the Aboriginal Quick Response Program, Accelerate, the NSW Aboriginal Arts Fellowship and the Troy Cassar-Daley scholarship for an emerging Aboriginal country music artist. Create NSW has announced a new fund that will offer individuals and organisations up to \$75,000 towards projects and employment that support a vibrant Aboriginal arts and cultural sector in NSW.

The Creative Koori Aboriginal Strategic Program has also been set up. The purpose of this program is to support projects that increase employment for Aboriginal people at all stages of their artistic practice, build the capacity of NSW Aboriginal arts and cultural organisations and increase the professional skills development of Aboriginal artists.


 *New South Wales has implemented Recommendation 209 by providing funding for Aboriginal arts programs.*

The **Victorian** Government has provided significant funding to promote the production and marketing of Aboriginal and Torres Strait Islander art and craft through Arts Victoria and Aboriginal Affairs Victoria. Specifically, the Aboriginal Cultural Heritage program provides funding that underpins a number of cultural heritage activities. In 1993-94 and 1994-95, Aboriginal Affairs Victoria (in conjunction with the Victorian Government) provided funding for six programs, while Arts Victoria provided funding for a further six programs, the Public Record Office of Victoria supported one program, and Film Victoria supported an additional six programs. An example of these programs include the *Arts Victoria Indigenous Professional Development Program*.

 *Victoria has implemented Recommendation 209 by providing funding for Aboriginal and Torres Strait Islander arts programs.*

**Queensland** implemented the *Indigenous Regional Arts Development Fund* and the *Queensland Indigenous Arts Marketing and Export Agency*. In 1991-92, grants in excess of \$200,000 were allocated to Aboriginal and Torres Strait Islander themed arts and culture programs. The-then Department of Family Services and Aboriginal and Islander Affairs, and Colleges of Technical and Further Education jointly designed a course aimed at assisting Aboriginal and Torres Strait Islander people to produce and market their art and craft. The Aboriginal and Torres Strait Islander art and craft industry received upgraded financial and staffing support in response to a review conducted by the Arts Division of the former Department of the Premier.

Currently, the Backing Indigenous Arts Initiative aims to build a stronger, more sustainable and ethical Aboriginal and Torres Strait Islander arts industry in Queensland by supporting a range of initiatives, including a network of Indigenous Art Centres, the Cairns Indigenous Art Fair, continuation of the Indigenous Regional Arts Development Fund program, and the Aboriginal Centre for the Performing Arts.

 *Queensland has implemented Recommendation 209 by providing funding for Aboriginal and Torres Strait Islander arts programs.*

**South Australia's** Department for the Arts and Cultural Heritage provided two grant programs to support and encourage Aboriginal and Torres Strait Islander Arts following the release of the RCIADIC report. This included: project grants (representing approximately 12.6% of the total project grants for all art form areas) and general purpose grants (including general purpose funding to three Aboriginal and Torres Strait Islander arts organisations). Specifically, South Australia implemented the *Project Assistance* program, and the *Individual Artist Development Program*.

The Ananguku Arts and Culture Aboriginal Corporation delivers services for APY and other regional arts centres and artists on an annual basis, and is supported by the SA Government through Arts SA's grant programs, and nationally through the Australian Government's Indigenous Visual Arts Industry Support program. Arts SA is developing the inaugural Arts South Australia Aboriginal Arts Strategy to

identify the aspirations of South Australian Aboriginal and Torres Strait Islander artists and organisations that supports arts and culture, and to identify ways to meet aspirations.

- *South Australia has implemented Recommendation 209 by providing funding for Aboriginal and Torres Strait Islander arts programs.*

In **Western Australia**, the Department for the Arts conducted training seminars, and encouraged the participation of Aboriginal and Torres Strait Islander representatives in the steering committee and consultancy team for the 1994 feasibility study for a new National Institute of Aboriginal Culture. Currently the Western Australian Aboriginal Arts Grants program works to expand the production and marketing of Aboriginal and Torres Strait Islander art and craft via a series of strategies. These strategies include: Revealed - Emerging Aboriginal Artists from WA (exhibition, marketplace, symposium, professional development); and Future Focus for WA Aboriginal Art Centres, a funding program targeted at developing Aboriginal art centre viability and opening new commercial markets.

- *Western Australia has implemented Recommendation 209 by providing funding for Aboriginal and Torres Strait Islander arts programs.*

The **Tasmanian** government provided, at the time of the 1995 implementation report, annual funding through the *Aboriginal Arts Fund* to Arts Tasmania, which included an Aboriginal Arts Advisory Group that advised the-then Minister for Education and the Arts on issues impacting the development of Aboriginal and Torres Strait Islander artists in Tasmania. Currently, the Tasmanian Department of State Growth supports the Aboriginal Arts Advisory Committee, which provides advice to the Tasmanian Arts Advisory Board.

- *Tasmania has partially implemented Recommendation 209 by supporting the Aboriginal Arts Advisory Committee but has not addressed the specific nature of its support.*

The-then **Northern Territory** Office of the Arts and Cultural Affairs provided, at the time of the 1995 implementation report, financial assistance, advocacy, consultation and cultural policy development to Aboriginal and Torres Strait Islander people. This included working with agencies such as the Museum and Art Galleries of the Northern Territory. Support was also provided by the Office to organisations such as the Northern Territory University and Arts Training NT, who played an active role in promoting Aboriginal and Torres Strait Islander arts and cultural activity.

- *The Northern Territory has implemented Recommendation 209 by providing funding for Aboriginal and Torres Strait Islander arts programs.*

The strategic plan prepared by the **Australian Capital Territory** Cultural Council in 1997 illustrated the need to provide increased opportunities to Aboriginal and Torres Strait Islander people to participate in both mainstream and Aboriginal and Torres Strait Islander specific programs and services. Priority was given to the facilitation and development of Aboriginal and Torres Strait Islander arts, culture and heritage practice and policies in the ACT through Aboriginal and Torres Strait Islander leadership practices.

The Australian Capital Territory Government has also noted its support of Aboriginal and Torres Strait Islander artists and communities through artsACT and support of Aboriginal and Torres Strait Islander businesses through the ACT Government's Indigenous Business Development and Entrepreneur Program. Further, the Australian Capital Territory Government has indicated that it supports the ongoing involvement in the arts for those Aboriginal and Torres Strait Islander people in custody.

- *The Australian Capital Territory has partially implemented Recommendation 209 by facilitating and developing Aboriginal and Torres Strait Islander arts.*

## Recommendation 210

*That:*

- All employees of government departments and agencies who will live or work in areas with significant Aboriginal populations and whose work involves the delivery of services to*

*Aboriginal people be trained to understand and appreciate the traditions and culture of contemporary Aboriginal society;*

- b. Such training programs should be developed in negotiation with local Aboriginal communities and organisations; and*
- c. Such training should, wherever possible, be provided by Aboriginal adult education providers with appropriate input from local communities.*

### Background information

To combat institutionalised racism, the RCIADIC Report considered that government service providers – such as healthcare professionals, law enforcement officers and education providers – should acquire an understanding and respect for the communities to which they are providing services.

### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation, as the implementation of this recommendation requires action from all levels of government.

### Key actions taken and status of implementation


Between 1992 and 1996, the **Commonwealth** Government's ATSIC delivered a Cross Cultural Awareness Program that provided training to all ATSIC staff to increase awareness of cross-cultural differences.

The Australian Public Service Commission (APSC) has developed the Aboriginal and Torres Strait Islander Cultural Capability: A Framework for Commonwealth Agencies which serves as a basis for building the cultural capability of the Commonwealth public sector. It explains the skills, knowledge, and practices that employees need to perform their duties in a culturally-informed way.

In June 2008, the AFP undertook Cultural Awareness Training as part of their RAP. The aim of this training was to improve their corporate understanding of Aboriginal and Torres Strait Islander cultures.

PM&C offers the Cultural Appreciation Programme to all staff. It is a comprehensive one-day training program delivered by Aboriginal and Torres Strait Islander PM&C staff to build skills, knowledge and appreciation of Aboriginal and Torres Strait Islander history, cultures and issues.


DET noted that the Core Cultural Learning: Aboriginal and Torres Strait Islander Australia Online Foundation Course was developed to provide an authoritative introductory platform for cultural capability training across the Commonwealth. The course aims to support the development of the foundational or baseline competencies all Commonwealth Government employees should possess. It is offered by a number of Commonwealth agencies as part of their mandatory staff training.

 *While the several Commonwealth agencies have taken action to respond to Recommendation 210, a lack of consistent application across all relevant agencies means that this recommendation is only mostly completed.*


The requirements of this recommendation were already current practice in **New South Wales** prior to the release of the RCIADIC report, as noted in the 1993 implementation report. Since the RCIADIC, and in response to the Stolen Generations Reparations Report recommendations, a cross-sector Aboriginal cultural awareness program has been initiated. This program complements a number of cultural training policies, such as Respecting the Difference: An Aboriginal Cultural Training Framework for NSW Health (2011), the Family and Community Services' Aboriginal Cultural Capability Framework, the Department of Education's Aboriginal Education Policy, and NSW Police's Policing Aboriginal Communities training. Those entering the police force also receive preparatory training which includes an Aboriginal component.

In various instances, training has been developed in negotiation with local communities, such as the Gundungurra people in the delivery of cultural heritage workshops for Jenolan Caves Reserve Trust staff and the Taronga people in the delivery of programs such as the Taronga cultural awareness


program and the Animals of the Dreaming program. Training programs have also been provided by Aboriginal adult education providers, such as Corporate Culcha, an Aboriginal-owned and operated company, which designs and delivers training for the Office of Environment and Heritage.

 *New South Wales has implemented Recommendation 210 by providing cultural awareness training to government employees.*

**Victoria** implemented the *Aboriginal Inclusion Framework* across all Victorian public sector departments to build in substantive inclusion of Aboriginal and Torres Strait Islander people in all aspects of organisational culture. Examples of initiatives under this Framework include training for Department of Education and Early Childhood Development staff in their liaisons with Aboriginal and Torres Strait Islander communities, and training programs implemented by the Department of Health to improve the quality of care to Aboriginal and Torres Strait Islander patients. Cross-cultural training programs also form a large part of the Victorian Public Service Aboriginal Employment Strategy which involve participation from Aboriginal and Torres Strait Islander Elders and the local community. The Koori Health Unit, as of 1993, was providing professional training to State Government Aboriginal and Torres Strait Islander employees in cultural awareness. The AJA also incorporates training for individuals employed across the justice system in regards to Aboriginal and Torres Strait Islander cultural awareness.

 *Victoria has implemented Recommendation 210 by providing cultural awareness training to government employees.*

The **Queensland** Government's Reconciliation Action Plan includes cultural awareness training, workshops and Aboriginal and Torres Strait Islander protocols. Additionally, the Queensland Police Service is trained in cultural awareness that focuses on Aboriginal and Torres Strait Islander communities. Staff entering the Queensland Corrective Services Commission are exposed to examinable material on cross-cultural education. This cross-cultural awareness training has been rolled out as a general training policy for all public sector employees. Currently, all Queensland Government agencies are required to develop a Cultural Capability Action Plan that outlines actions to improve cultural awareness and responsiveness.

 Queensland has implemented Recommendation 210 through its Cultural Capability Action Plans.


The **South Australian** Government has a Reconciliation Action Plan which focuses on cultural awareness training, workshops and Aboriginal and Torres Strait Islander protocols. In addition, SA Government agencies develop and monitor their own Reconciliation Action Plans, many of which have commitments to providing cultural awareness training to staff. Aboriginal and Torres Strait Islander cultural awareness programs have been rolled out in the former Department of Correctional Services. Police members who decide to undertake a posting in remote areas are required to undertake a 'Remote Areas Course' where local Aboriginal and Torres Strait Islander personnel provide input into the course. Additionally, the Department of Family and Community Services provide cross cultural training to staff working in some areas where there is a high proportion of residents identifying as Aboriginal and Torres Strait Islander.

 *South Australia has implemented Recommendation 210 through its Reconciliation Action Plans.*

The **Western Australian** Government has previously developed a Reconciliation Action Plan which incorporates cultural awareness training, workshops and other Aboriginal and Torres Strait Islander protocols. In 1994, the *Aboriginal Arts Assessment Panel* was appointed alongside the *Aboriginal Cultural Development Policy Project*. In 1994, Aboriginal and Torres Strait Islander representatives were appointed to the Community Arts and Creative Development panels. Additionally, the Art Gallery of Western Australia developed an in-house program for staff to attend an internal series of workshops. Some of these workshops and seminars will include Aboriginal and Torres Strait Islander programs. The Department of Local Government has implemented several cross-cultural awareness programs that involve around 30 councils in a number of workshops to improve the knowledge and skills involved in working successfully with Aboriginal and Torres Strait Islander people.


In addition to this, the Western Australian Government has a state-wide online training module called Sharing Culture. The module was developed in consultation with Aboriginal and Torres Strait Islander people, and enables public sector employees to develop their awareness of Aboriginal and Torres Strait Islander history, culture and experiences, to help to develop better ways of working and engaging with people from Aboriginal backgrounds. A number of Western Australian Government departments also have discreet multicultural training.

A number of Western Australian government agencies have also established Reconciliation Action Plans in consultation with Reconciliation Australia. These plans often include specific goals pertaining to the agency's provision of Aboriginal cultural awareness training to its staff.


 *Western Australia has implemented Recommendation 210 through training of government employees.*

The **Tasmanian** Government requires that staff working in prisons and juvenile detention have received appropriate training in Aboriginal and Torres Strait Islander prisoner management. In 1993, the Department of Corrections funded the employment of an Aboriginal and Torres Strait Islander consultant to develop cross-cultural training programs in consultation with Aboriginal and Torres Strait Islander communities. Additionally, the former Department of Education and the Arts ensured that the Aboriginal and Torres Strait Islander community had been consulted in the preparation of syllabus materials.

The Tasmanian State Service is currently developing a whole of Service Aboriginal Employment Strategy. As part of this process, the need to better understand and recognise the Tasmanian Aboriginal Culture across the entire Service has been a strong theme. Initiatives to support this will be incorporated in the action plan. The Department of Health and Human Services and the Tasmanian Health Service support their staff to provide culturally safe services through an Aboriginal cultural awareness e-learning training package, which was developed in consultation with the Aboriginal and Torres Strait Islander community and is currently being updated by Public Health Services. Some Department of Health and Human Services business units also engage community organisations to run more tailored and face-to-face training.

 *Tasmania has implemented Recommendation 210 through various initiatives and policies that provide cultural awareness training to government employees.*

In the **Northern Territory**, the Office of the Commissioner for Public Employment required that all public service staff who work with Aboriginal and Torres Strait Islander clients complete a cultural awareness course. Funding was provided in the 1995-96 budget for a journalist responsible for the production of a training package to be translated into Aboriginal and Torres Strait Islander languages to advise Aboriginal and Torres Strait Islander people of their rights and responsibilities under the Northern Territory *Anti-Discrimination Act 1993* (NT). This was through the former Officer of the Anti-Discrimination Commissioner. Since this time, the DHCD has also developed the Remote Engagement Coordination Strategy and a Bushready online toolkit, All public servants working remotely use this toolkit and the strategy actively promotes training to all public servants engaging with communities.

 *The Northern Territory has implemented Recommendation 210 by requiring its staff to undertake cultural awareness courses.*

The **Australian Capital Territory** has previously provided funding in 1997 to develop a three-year training program focusing on diversity and cross cultural awareness for ACT Government public service employees. Both the *Access and Equity* and *Equal Employment Opportunity* policies were addressed in this program. The *Valuing Diversity – ACT Government Service Diversity and Culture Training Project* provided staff with the knowledge and skills to manage and work effectively with diverse people and situations. This training provided significant emphasis on Aboriginal and Torres Strait Islander issues and also involved an Aboriginal and Torres Strait Islander co-presenter. Training continues to be provided. Additionally, the ACT Education Directorate has implemented training programs for school staff covering Aboriginal and Torres Strait Islander education issues.

- *The Australian Capital Territory has implemented Recommendation 210 by providing cultural awareness training to government employees.*

## Recommendation 211

*That the Human Rights and Equal Opportunity Commission and State Equal Opportunity Commissions should be encouraged to further pursue their programs designed to inform the Aboriginal community regarding antidiscrimination legislation, particularly by way of Aboriginal staff members attending at communities and organisations to ensure the effective dissemination of information as to the legislation and ways and means of taking advantage of it.*

### Background information

The RCIADIC Report considered nation-wide anti-discrimination legislation to be an effective mechanism for combating both the institutionalised discrimination of Aboriginal and Torres Strait Islander people and individual racism.

### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation. The implementation of this recommendation is addressed to the Commonwealth and jurisdictional governments.

### Key actions taken and status of implementation

The AGD noted that in direct response to this recommendation, the **Commonwealth** created the Aboriginal and Torres Strait Islander Social Justice Commissioner in December 1992. The role of the Commissioner is to promote discussion and awareness of human rights in relation to Aboriginal and Torres Strait Islander people and to undertake research and education programs for the purpose of promoting respect for human rights of Aboriginal and Torres Strait Islander people. The Commissioner may also prepare annual social justice and native title reports. The reports outline various legislative and human rights initiatives to address social, political and economic inequality. Recommendations for ways to improve the Aboriginal and Torres Strait Islander community's engagement with its legal rights are also discussed.

- *Recommendation 211 has been fully implemented through the creation of the role of the Commissioner, and their reports.*

At the time of the RCIADIC report, **New South Wales** had legislation in place to prohibit racial vilification as per the *Racial Discrimination Act 1977* (NSW) and the *Anti-Discrimination Act 1977* (NSW). In 1993, the Anti-Discrimination board had designed an Aboriginal Outreach Program to be staffed by Aboriginal people to address common issues revolving around the discrimination of Aboriginal people. Currently, the Anti-Discrimination Board of NSW promotes anti-discrimination, equal opportunity principles and policies throughout NSW. It also administers the anti-discrimination laws and handles complaints under the Acts.

- *New South Wales has implemented Recommendation 211 through the Anti-Discrimination Board of NSW.*


In **Victoria**, the *Equal Opportunity and Human Rights Commission's* Indigenous Engagement Program (operating since 1991) provides information to the Aboriginal and Torres Strait Islander population regarding their rights, and avenues of redress, in regards to discrimination. This service is delivered by Aboriginal and Torres Strait Islander staff members, in collaboration with the Victorian Aboriginal Legal Service. Additionally, the Koori Outreach Program, maintained by the former Equal Opportunity Commission, provides information to Aboriginal and Torres Strait Islander communities in regards to anti-discrimination legislation. The Victorian AJA also focuses on developing responses to racism and discrimination across the justice system, including grievance systems.

- *Victoria has implemented Recommendation 211 through the Indigenous Engagement Program.*

In 1991, **Queensland** introduced the *Anti-Discrimination Act 1991* (Qld), which established the Anti-Discrimination Commission Queensland. The Commission operates the Aboriginal and Torres Strait Islander Unit, which provides continued advocacy for issues that are of importance to Aboriginal

and Torres Strait Islander people and undertakes community-based initiatives, such as community visits and information sessions.

The Queensland Government has also: undertaken research and educational programs to promote the purposes of the Act, and to coordinate programs undertaken by other people or authorities on behalf of the government; and consulted with various organisations to ascertain means of improving services and conditions affecting groups that are subjected to contraventions of the Act.


 *Queensland has implemented Recommendation 211 through activities undertaken by the Aboriginal and Torres Strait Islander Unit of the Anti-Discrimination Commission Queensland.*

**South Australia** implemented legislation within the *Local Government Act 1999* (SA) and the *Family and Community Services Act 1972* (SA) to disseminate information about race discrimination. Currently, the Equal Opportunity Commission is responsible for promoting and implementing the National Anti-Racism Strategy in SA. In addition, the Australian Human Rights Commission employs an Aboriginal and Torres Strait Islander Social Justice Commissioner who is responsible for reviewing and reporting on the impact of laws and policies on Aboriginal and Torres Strait Islander people and related issues. They also produce Social Justice and Native Title Annual Reports and oversee a complaints mechanism.


 *South Australia has implemented Recommendation 211 through activities undertaken by the Equal Opportunity Commission and the Australian Human Rights Commission.*

The **Western Australian** Equal Opportunity Commission plays a role in disseminating information to Aboriginal and Torres Strait Islander people in a relevant and appropriate manner. Education is provided to employers, employees, organisations and the wider community through workshops, seminars and presentations to inform these groups that discrimination is unlawful.


In addition to this, the Western Australian Equal Opportunity Commission designates positions for Aboriginal Officers. Officers are involved in rights based training sessions when the participants are predominantly from the Aboriginal and Torres Strait Islander community.

 *Western Australia has implemented Recommendation 211 through activities undertaken by the Equal Opportunity Commission.*

Section 6 of the **Tasmanian Anti-Discrimination Act 1998** provides that the functions of the Anti-Discrimination Commissioner include, among other things, promoting the recognition and approval of acceptable attitudes, acts and practices relating to discrimination and prohibited conduct, disseminating information about discrimination and prohibited conduct, and undertaking relevant research and programs. Equal Opportunity Tasmania also provides a range of free training and information sessions, including sessions designed to focus on human rights issues affecting Aboriginal and Torres Strait Islander people.

 *Tasmania has implemented Recommendation 211 through activities undertaken by the Anti-Discrimination Commissioner.*

In the **Northern Territory**, the Anti-Discrimination Commission defined, as per the 1995 implementation report, discrimination in various Aboriginal and Torres Strait Islander languages in video form. However, it is not clear whether additional forms of information dissemination – such as face-to-face initiatives – were implemented. Officers from the Northern Territory Anti-Discrimination Commission consult with Aboriginal and Torres Strait Islander organisations and legal services to develop strategies to help Aboriginal and Torres Strait Islander people use anti-discrimination mechanisms more effectively.

 *The Northern Territory has implemented Recommendation 211 through activities undertaken by the Anti-Discrimination Commission.*

The **Australian Capital Territory** implemented requirements set out by the ACT Human Rights Commission to disseminate information about race discrimination. The ACT Human Rights Commission's core work includes improving the quality of, and access to, services, as well as



protecting and promoting Aboriginal and Torres Strait Islander human rights, including the right to non-discrimination. The Commission supports an educational function by providing information to Aboriginal and Torres Strait Islander communities about anti-discrimination and human rights legislation, as well as programs that foster community involvement with Aboriginal and Torres Strait Islander people.

 *The Australian Capital Territory has implemented Recommendation 211 through activities undertaken by the ACT Human Rights Commission.*

## Recommendation 212

*That the Human Rights and Equal Opportunity Commission and State Equal Opportunity Commissions should be encouraged to consult with appropriate Aboriginal organisations and Aboriginal Legal Services with a view to developing strategies to encourage and enable Aboriginal people to utilise anti-discrimination mechanisms more effectively, particularly in the area of indirect discrimination and representative actions.*

### Background information

The RCIADIC Report considered nation-wide anti-discrimination legislation to be an effective mechanism for combating both the institutionalised discrimination of Aboriginal and Torres Strait Islander people and individual racism.


### Responsibility

The Commonwealth, and all State and Territory governments have responsibility for this recommendation.


### Key actions taken and status of implementation

As noted in Recommendation 211, the **Commonwealth** created the role of the Aboriginal and Torres Strait Islander Social Justice Commissioner in response to this recommendation. The Commissioner may prepare social justice and native title reports. The reports outline various legislative and human rights initiatives to address social, political and economic inequality. Recommendations for ways to improve the Aboriginal and Torres Strait Islander community's engagement with its legal rights is also discussed.

In 2015, the Australian Human Rights Commission published 'Know Your Rights: Aboriginal and Torres Strait Islanders' which explains racial discrimination and what Aboriginal and Torres Strait Islander people can do in the event that they experience racial discrimination. The Australian Human Rights Commission has also developed the National Indigenous Legal Advocacy Courses to provide the necessary competency and skills training for Aboriginal and Torres Strait Islander people wishing to work in a legal environment.

 *Recommendation 212 has been directly implemented at the Commonwealth level through the work of the Aboriginal and Torres Strait Islander Social Justice Commissioner, and the work of the Human Rights Commission.*

Actions taken for Recommendation 211 by **all States and Territories** are also relevant to this recommendation. No evidence of further actions taken by any jurisdiction to respond to this recommendation were identified.

 *Recommendation 212 has been completed by all States and Territories, through the actions noted in the response to Recommendation 211.*

### Additional commentary

**Western Australia** noted that The Western Australian Equal Opportunity Commission regularly liaises with the Aboriginal Legal Service Western Australia and other groups who primarily advocate for Aboriginal and Torres Strait Islander clients and conducts sessions on filing effective complaints. The commission actively promotes the Policy Framework for Substantive Equality, which mandates State Government agencies to address and prevent systemic discrimination.

## Recommendation 213

*That governments which have not already done so legislate to proscribe racial vilification and to provide a conciliation mechanism for dealing with complaints of racial vilification. The penalties for racial vilification should not involve criminal sanctions. In addition to enabling individuals to lodge complaints, the legislation should empower organisations which can demonstrate a special interest in opposing racial vilification to complain on behalf of any individual or group represented by that organisation.*

### Background information


The RCIADIC determined that systemic discrimination of the Aboriginal and Torres Strait Islander population was exacerbated by the use of language as a form of violence.

### Responsibility


The Commonwealth, and all State and Territory governments have responsibility for this recommendation. The recommendation applies to all governments who have not passed the necessary legislation.

### Key actions taken and status of implementation


The *Racial Hatred Act 1995* was passed by the **Commonwealth** to amend the *Crimes Act 1914* and the *Racial Discrimination Act 1975*, to provide for criminal offences and civil prohibition respectively. The AGD noted that this amendment makes it unlawful to insult, offend, humiliate or intimidate people in public on the basis of their race. Further, victims of racial hatred are entitled to seek redress through the Australian Human Rights Commission.

 *While the Commonwealth legislation responds to this recommendation, it did not adhere fully to the recommendation in that it included criminal sanctions. As such, further action is required to fully address Recommendation 213.*


In New South Wales, the *Racial Discrimination Act 1975 (Cth)* and the *Anti-Discrimination Act 1977 (NSW)* are in place to prohibit racial discrimination. Section 20C of the New South Wales Act makes racial vilification unlawful and complaints may be made to the Anti-Discrimination Board of NSW by or on behalf of individuals or by representative bodies, provided that each person on whose behalf the complaint is made has the relevant characteristic. Section 91A enables the President of the NSW Anti-Discrimination Board to require parties to attend a conciliation conference to endeavour to resolve a complaint. Unresolved complaints may be referred to the NSW Civil & Administrative Tribunal, declined or withdrawn, depending on the circumstances.

 *New South Wales has partially completed Recommendation 213 by introducing legal sanctions for racial vilification. Organisations that are representative bodies are also able to lodge complaints on behalf of any individual or group. However, legislation does allow for criminal sanctions.*


**Victoria** implemented civil and criminal sanctions for racial vilification under the *Racial and Religious Tolerance Act 2001 (Vic)*. The criminal standard requires that the behaviour needs to have been 'intended' to incite racial hatred or be reckless to the fact.

 *Victoria has mostly completed Recommendation 213 by introducing legal sanctions for racial vilification, however, does allow for criminal sanctions.*


**Queensland** implemented civil and criminal sanctions for racial vilification under the *Anti-Discrimination Act 1991 (Qld)*. The criminal offence under section 141A of the Act requires proof that the acts must have been undertaken either knowingly or recklessly and incite hatred towards, serious contempt for, or severe ridicule of people of, amongst other things, a particular race. The Act details conciliation processes before the Anti-Discrimination Commission and the Queensland Civil and Administrative Tribunal. A prosecution can only be commenced with the consent of either the Attorney-General or the Director of Public Prosecutions. Individuals and organisations may also be able to make representative complaints on behalf of an individual or group represented by that organisation.

 *Queensland has mostly completed Recommendation 213 by introducing legal sanctions for racial vilification, however, does allow for criminal sanctions.*


**South Australia** implemented civil and criminal sanctions for racial vilification under the *Racial Vilification Act 1996 (SA)*. The legislation defines a criminal offence as a public act to “incite hatred towards, serious contempt for, or severe ridicule of” a person/s on the grounds of their race by “threatening physical harm” or “inciting others to threaten physical harm” to that person/s or their property. Prosecution requires the written consent of the Director of Public Prosecutions.

 *South Australia has mostly completed Recommendation 213 by introducing legal sanctions for racial vilification, however, does allow for criminal sanctions.*


In **Western Australia**, introduction of the *Equal Opportunity Amendment Act* in 1993 made it unlawful to discriminate on the ground of racial harassment in employment, education and accommodation. Currently, the Western Australian Attorney General is considering the progression of racial vilification provisions in the *Western Australian Equal Opportunity Act 1984*, as part of a comprehensive review of that Act. This will provide an avenue for redress through civil rather than criminal proceedings.

 *Western Australia has mostly completed Recommendation 213 by introducing legal sanctions for racial vilification, however, does allow for criminal sanctions.*

In **Tasmania**, the *Anti-Discrimination Act 1998* contains detailed complaint and conciliation provisions and makes provision for complaints to be made to the Anti-Discrimination Commissioner by persons and organisations other than the person against whom the alleged discrimination or prohibited conduct was directed. In March 2017, amendments to the *Sentencing Act 1997 (Tas)* came into effect requiring the court to take into account as an aggravating circumstance whether the offence was motivated by (a) hatred for or prejudice against, on racial grounds, any victim of the offence; or (b) hatred for or prejudice against, on racial grounds, a person or group of persons with whom at the relevant time any victims of the offence was associated or believed by the offender to have been associated.

 *Tasmania has implemented Recommendation 213 by introducing legal sanctions for racial vilification.*

The **Northern Territory's** 1994-95 implementation report reported that the NT Government intended to review the *Anti-Discrimination Act 1993 (NT)* in future years. This Act works to provide equal opportunity for all residents of the Northern Territory. As part of this review, the Northern Territory Government will seek to improve the Act in regards to addressing racial vilification. No information was identified on whether the Act was reviewed since this time. In September 2017, the NT Government released a discussion paper on modernising the Act.<sup>46</sup>

 *The Northern Territory has partially completed Recommendation 213 by seeking to modernise the Anti-Discrimination Act 1993 (NT) with regards to addressing racial vilification.*

**Australian Capital Territory** has implemented civil sanctions for racial vilification through the *Discrimination Act 1991*.

Consistent with the Recommendation, the Australian Capital Territory law does not impose criminal sanctions in support of freedom of speech, and criminal sanctions do not apply to speeches, demonstrations, works of art, or public policy discussions.

The ACT Criminal Code does make serious vilification a criminal offence. However, ‘serious vilification’ is defined as the intentional carrying out of a threatening act, other than in private. This threatening act has to incite hatred, revulsion, or serious contempt against people based on their status.

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<sup>46</sup> [https://justice.nt.gov.au/\\_\\_data/assets/pdf\\_file/0006/445281/anti-discrimination-act-discussion-paper-september-2017.pdf](https://justice.nt.gov.au/__data/assets/pdf_file/0006/445281/anti-discrimination-act-discussion-paper-september-2017.pdf)

The ACT Discrimination Act does not create civil or criminal sanctions for racial vilification. The Act labels behaviour as 'unlawful'. Sections 71 and 72 clarify that this does not mean that they are criminal offences, or that they give rise to civil actions. The one criminal offence contained in the Act criminalises unauthorised sharing of protected information.

- *The Australian Capital Territory has completed Recommendation 213 by introducing legal sanctions for racial vilification.*