

Executive summary

The Royal Commission into Aboriginal deaths in custody (RCIADIC) was conducted between 1987 and 1991. The final report was provided in 1991 and made 339 recommendations across a wide range of policy areas. The largest number of recommendations relate to policing, criminal justice, incarceration and deaths in custody. The RCIADIC also made recommendations relating to health, education and self-determination in recognition of the breadth of factors leading to the high rates of incarceration of Aboriginal and Torres Strait Islander people, particularly for young people.

The RCIADIC concluded that “Aboriginal people in custody do not die at a greater rate than non-Aboriginal people in custody ... what is overwhelmingly different is the rate at which Aboriginal people come into custody, compared with the rate of the general community”.¹ Despite this key finding, in the 27 years since the RCIADIC the Aboriginal and Torres Strait Islander share of the prison population has doubled, while the mortality rate for Aboriginal and Torres Strait Islander people in custody has halved. Thus, while there have been positive steps, it is clear that further work is still required to successfully address the disproportionately high, and growing, rates of incarceration among Aboriginal and Torres Strait Islander people.

Key themes from the original RCIADIC recommendations

The RCIADIC report was a seminal report, initially intended to investigate Aboriginal and Torres Strait Islander deaths in custody in the 1980s, but became a wide ranging investigation into the causes of Aboriginal and Torres Strait Islander incarceration (Weatherburn, 2014). While the RCIADIC’s recommendations were detailed and specific, the following key themes emerged in that report:

- It is critical to include Aboriginal and Torres Strait Islander people and their perspectives in the development of policies, in undertaking research, and in the operation of programs and institutions to ensure they are culturally and socially appropriate.
- Significant improvements were needed to the criminal justice system and policing in relation to custody arrangements, post-death investigations, support for Aboriginal and Torres Strait Islander individuals and communities that come into contact with the criminal justice system, and the fair application of laws to Aboriginal and Torres Strait Islander people.
- Better targeted support and better use of funding was required for Aboriginal and Torres Strait Islander people across health, employment, schooling and infrastructure, to address the inequitable outcomes facing Aboriginal and Torres Strait Islander people, and particularly young people.

To allow for a thematic assessment of the 339 recommendations, we have divided the recommendations into ten themes based on the topics covered by the recommendations. These are as follows:

- **Coronial matters (recommendations 1-47):** overview, the findings of the Commissioners as to the deaths, post-death investigations, and the adequacy of information.
- **The justice system (recommendations 48-62):** Aboriginal society today, relations with the non-Aboriginal community, the criminal justice system (relations with police), and young Aboriginal people and the juvenile justice system.
- **Aboriginal and Torres Strait Islander disadvantage (recommendations 63-78):** the harmful use of alcohol and other drugs, schooling, housing and infrastructure, and self-determination and local government.
- **Non-custodial approaches (recommendations 79-121):** diversion from police custody, and imprisonment as a last resort.
- **Prison safety (recommendations 122-187):** custodial health and safety, and the prison experience.

¹ RCIADIC, Volume 1, paragraphs 1.3.1-1.3.2.

- **Self-determination (recommendations 188-213):** the path to self-determination, and accommodating difference (relations between Aboriginal and non-Aboriginal people)
- **Cycle of offending (recommendations 214-245):** improving the criminal justice system, and breaking the cycle.
- **Health and education (recommendations 246-299):** towards better health, coping with alcohol and other drugs (strategies for change), and educating for the future.
- **Equal opportunity (recommendations 300-327):** increasing economic opportunity, and improving the living environment (housing and infrastructure).
- **Reconciliation, land needs and international obligations (recommendations 328-339):** conforming with international obligations, addressing land needs, and the process of reconciliation.

This review

Deloitte was engaged to review the implementation status of the recommendations. The review has assessed the extent to which governments have implemented the recommendations through the actions they have taken (i.e. outputs), rather than assessing the outcomes of the actions (i.e. impacts on the overarching objectives of the RCIADIC).

For the review, we undertook a desktop review of the actions that governments had taken to address each of the recommendations. We then consulted with relevant Commonwealth agencies and each of the state and territory governments to capture additional actions that have been undertaken that we did not uncover during the desktop review.

Findings from this review

Of the 339 recommendations, we found that 194 recommendations were the joint responsibility of the Commonwealth and the States and Territories, 29 recommendations were solely the responsibility of the Commonwealth, and 116 recommendations were solely the responsibility of the States and Territories.

Table i Responsibility for recommendations by theme

Theme	Responsibility for recommendations			
	Combined	Commonwealth	State and Territory	Total
Coronial matters	16	3	28	47
The justice system	10	3	2	15
Aboriginal and Torres Strait Islander disadvantage	10	5	1	16
Non-custodial approaches	12	4	27	43
Prison safety	40	0	26	66
Self-determination	23	2	1	26
Cycle of offending	23	1	8	32
Health and education	33	2	19	54
Equal opportunity	19	8	1	28
Reconciliation, land needs and international obligations	8	1	3	12
Total	194	29	116	339

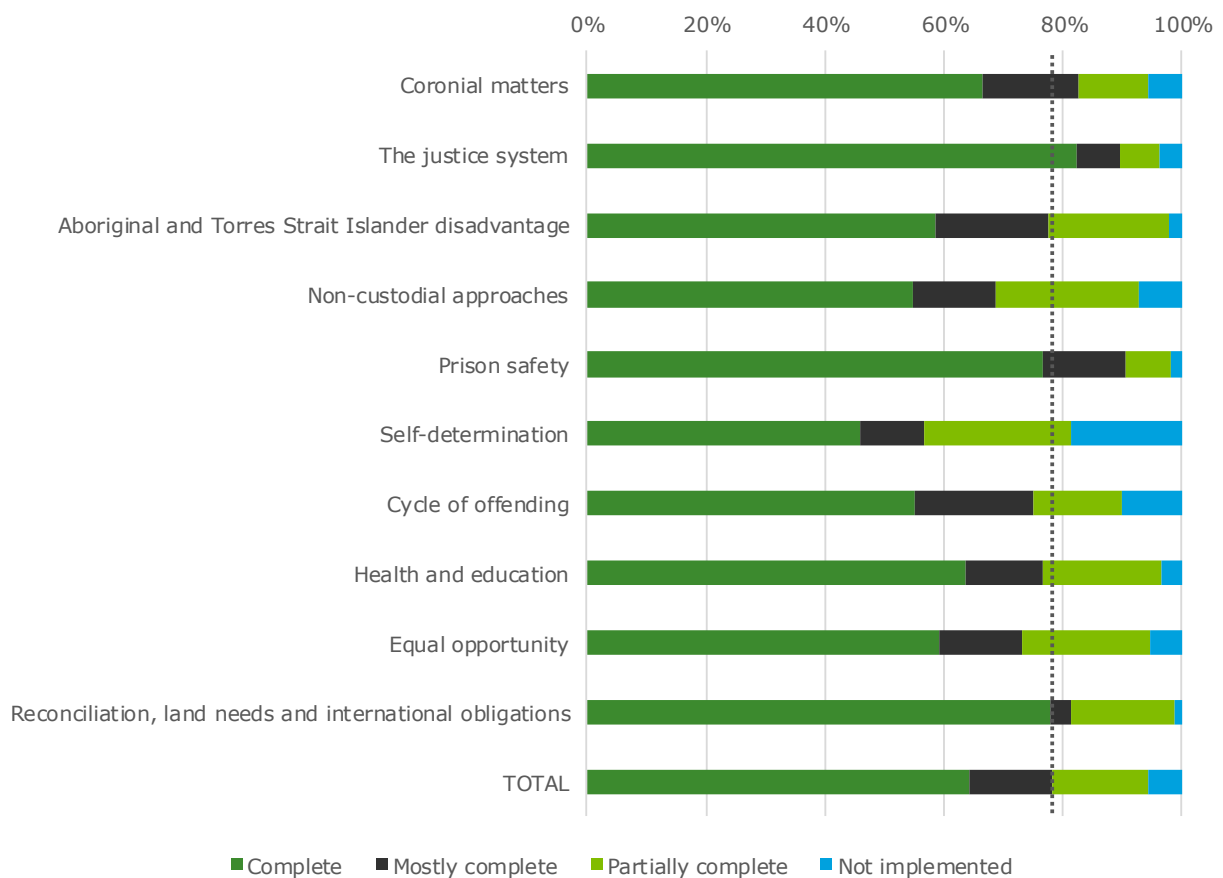
Note: the designation of responsibility was based on Deloitte's independent consideration of each recommendation. There were some isolated instances of recommendations where the jurisdictional views on responsibility were inconsistent with Deloitte's. These are noted in the report.

The status of implementation was determined using a four-point rating scale:

- **Complete** – recommendation has been implemented and no further action is required. For example, recommendations that related to a legislative change that has been enacted.
- ◐ **Mostly complete** – significant progress has been made on the implementation of the recommendation, however the recommendation has not been implemented in full.
- ◑ **Partially complete** – some elements of the recommendation have been implemented. For example, this may include a recommendation requiring a new program to be introduced and Aboriginal and Torres Strait Islander people employed to deliver the program, however it was only implemented with respect to introducing the new program.
- **Not implemented** – no progress has been made that is directly related to the recommendation.
- ⊘ Some recommendations are the responsibility of some government(s), but not all. For example, recommendations relating to remote communities have been assessed as out of scope for the Australian Capital Territory Government, given there are no remote communities in the ACT.

Chart i shows the proportion of recommendations that have been implemented by theme across the ten themes. This is based on the implementation status across all jurisdictions.

Chart i Implementation status of recommendations by theme



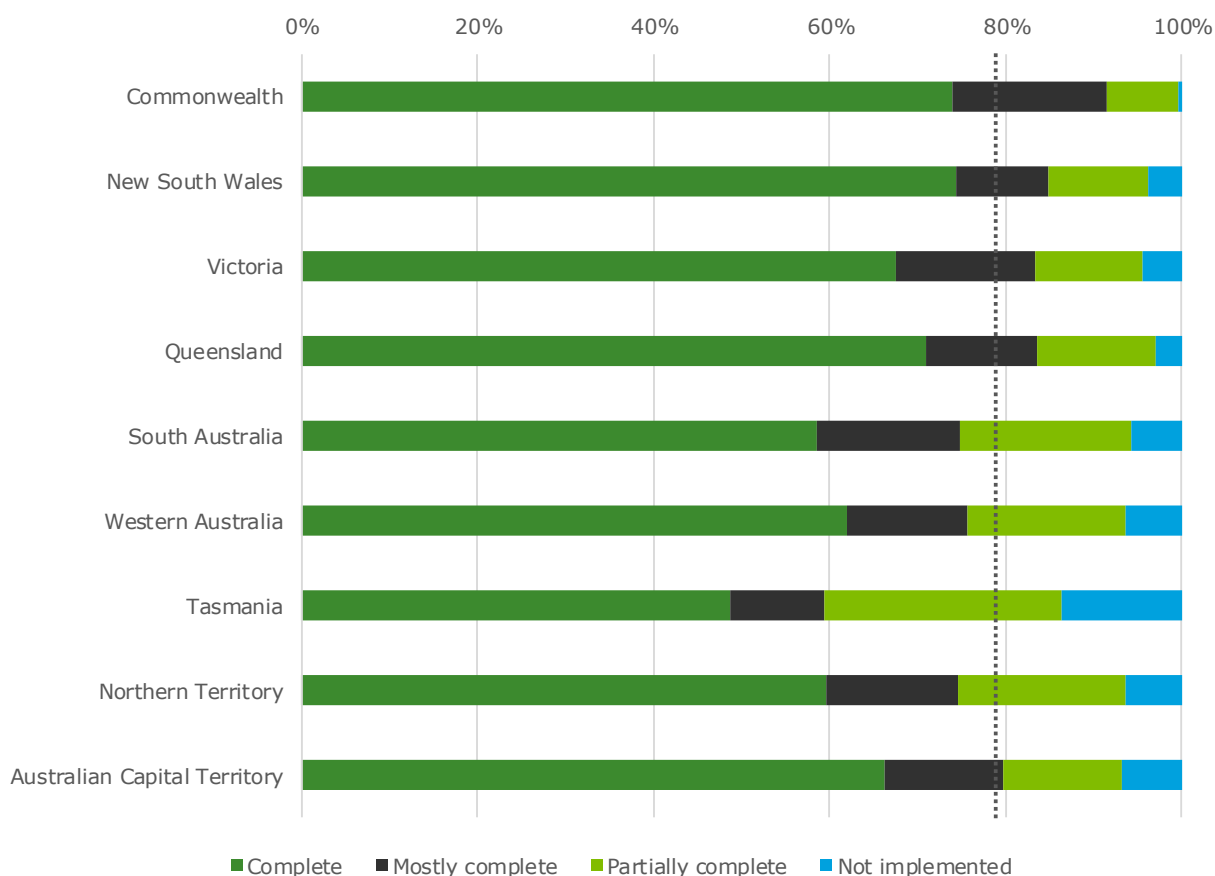
Note: The dashed line represents the average proportion of completed recommendations. The overall implementation status has been evenly weighted across all jurisdictions.

Chart i shows that across all recommendations for all jurisdictions, 64% have been implemented in full, 14% have been mostly implemented, 16% have been partially implemented and 6% have not been implemented. The chart shows that the highest proportion of fully implemented recommendations relates to the justice system, prison safety and reconciliation, land needs and international obligations. The lowest proportion of fully implemented recommendations relates to self-determination, non-custodial approaches, and cycle of offending.

Summary of major actions

All governments have undertaken substantial policy and legislative action to address the recommendations of the RCIADIC, both immediately following the RCIADIC and continuing in to the present. The Commonwealth Government has taken a key leadership role, along with States and Territories through the Council of Australian Governments, to contribute to better policy making and improved outcomes for Aboriginal and Torres Strait Islander Australians. The average implementation status for each jurisdiction across all of the recommendations is shown in Chart ii. A summary of the major actions taken by theme follows.

Chart ii Average implementation status – all recommendations



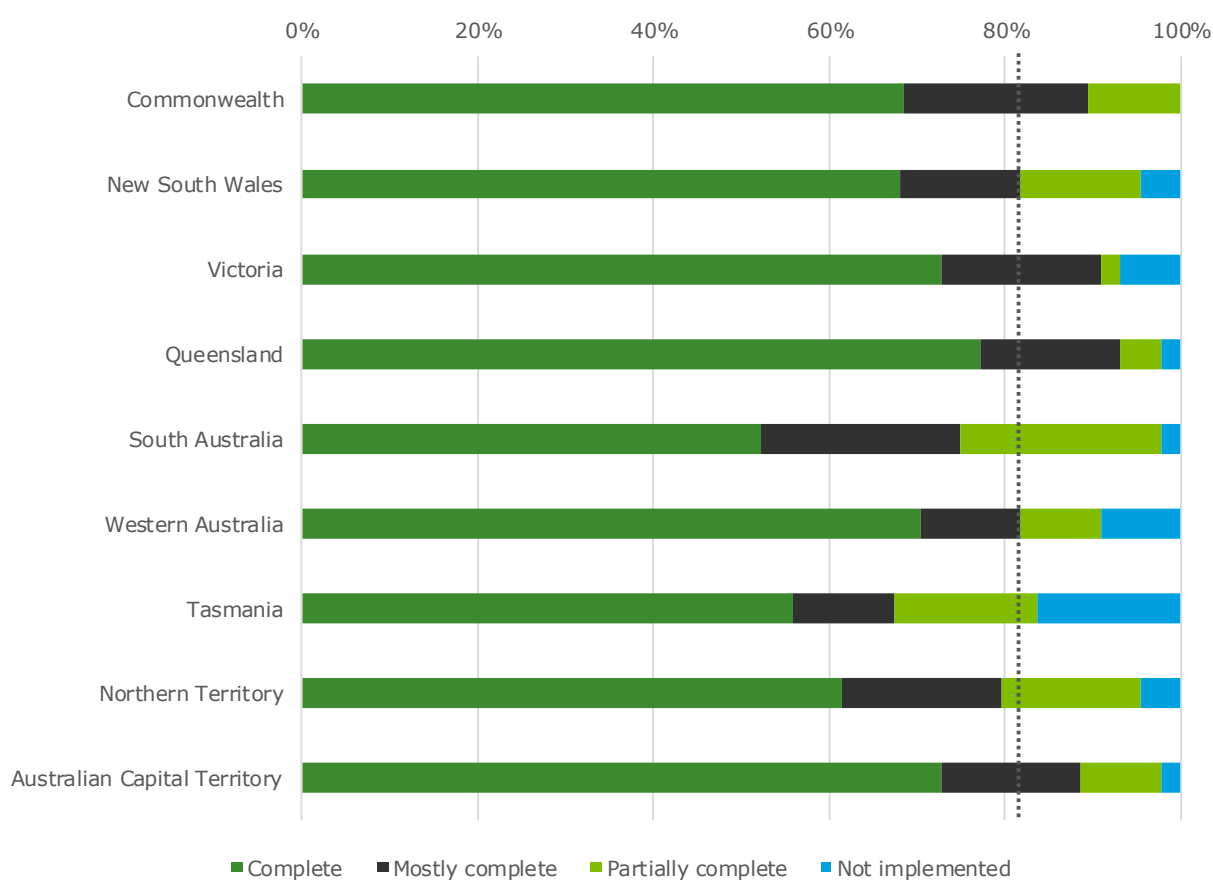
Note: The dashed line represents the average proportion of completed recommendations.

Coronial matters

The RCIADIC found that many deaths in custody were poorly reported at the time of death, which caused distress for families and next of kin. They also found that national data on deaths in custody was lacking. The RCIADIC also called for ongoing and public reporting on the implementation of the recommendations to allow for monitoring of progress.

The average implementation status for each jurisdiction in relation to coronial matters (recommendations 1-47) is shown in Chart iii.

Chart iii Average implementation status – coronial matters



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- At the **Commonwealth** level, the Australian Institute of Criminology (AIC) has collected and published annual data on deaths in custody since the RCIADIC through the National Deaths in Custody Program and was collecting data through the National Police Custody Survey (which has been suspended due to data issues). The Australian Bureau of Statistics (ABS) and the Australian Institute of Health and Welfare also collect data on adults and juveniles in detention.
- **New South Wales** produced implementation reports between 1992 and 2000, and monitored the implementation of the RCIADIC through an Aboriginal Justice Advisory Committee (AJAC). Coronial recommendations have been incorporated into police procedures and policies, and the Coroners Act 2009 (NSW). The NSW Government contributes to ongoing data publication.
- The **Victorian** Government produced implementation reports and established an AJAC to monitor the implementation of recommendations. Aboriginal Justice Agreements have continued to monitor progress, and set strategic policy priorities. Coronial recommendations have been addressed through the Coroners Act 2008 (Vic), and ongoing data publication of Aboriginal and Torres Strait Islander people in the prison population occurs.

- The **Western Australian** Government has produced five public implementation reports and continues to consult with Aboriginal and Torres Strait Islander communities in relation to the RCIADIC. The *Coroners Act 1996 (WA)* significantly addresses recommendations relating to the process of post-death investigation and coronial conduct. Western Australia cooperates with the Commonwealth Government on the publication of relevant data.
- In **Queensland**, the government produced implementation reports between 1993 and 1997 and established an AJAC and the Aboriginal and Torres Strait Islander Advisory Board (ATSIAB) to monitor progress. Coronial inquest and reporting processes were addressed through legislation and procedural guidelines. The Queensland Corrective Services publishes annual reports and other data.
- The **South Australian** Government produced implementation reports and established an AJAC and the South Australian Aboriginal Advisory Council (SAAA) to monitor the progress of implementation. Recommendations relating to coronial inquest, and investigation and reporting procedures were addressed through the *Coroners Act 2003 (SA)* and procedural guidelines. Ongoing data publication occurs as called for by the RCIADIC.
- The **Tasmanian** Government produced implementation reports in 1993 and 1995. The process of coronial inquest, and investigation and reporting procedures were addressed through amendments to the *Coroners Act 1995 (Tas)*, and the Tasmania Police Manual. Ongoing data publication occurs in cooperation with the Commonwealth.
- The **Northern Territory** (NT) Government produced implementation reports and monitored the progress of implementation through an AJAC and Aboriginal Justice Unit (AJU). The *Coroners Act 1993 (NT)* and other legislation and policy has been introduced to address coronial matters. Ongoing data collection and reporting occurs through the function of the Northern Territory Corrective Services (NTCS), and cooperation with the Commonwealth.
- The Australian Federal Police (AFP), in its role of providing community policing in the **Australian Capital Territory** (ACT) and Jervis Bay Territory, has implemented a number of measures and operational changes through the AFP *National Guideline on persons in custody and police custodial facilities* ('*National Guideline*') to guide police actions if there is a death in custody.

Areas where the recommendations have not been implemented in full, relate to:

- the intensity of reporting on the progress of implementation of the recommendations, which has reduced over time across all jurisdictions; and
- reporting on data on police custody. This remains an ongoing issue. A review of the first data collection using electronic custody data has been completed internally. The next stage will be for the AIC to engage with state and territory data providers to develop the next iteration of data collection.

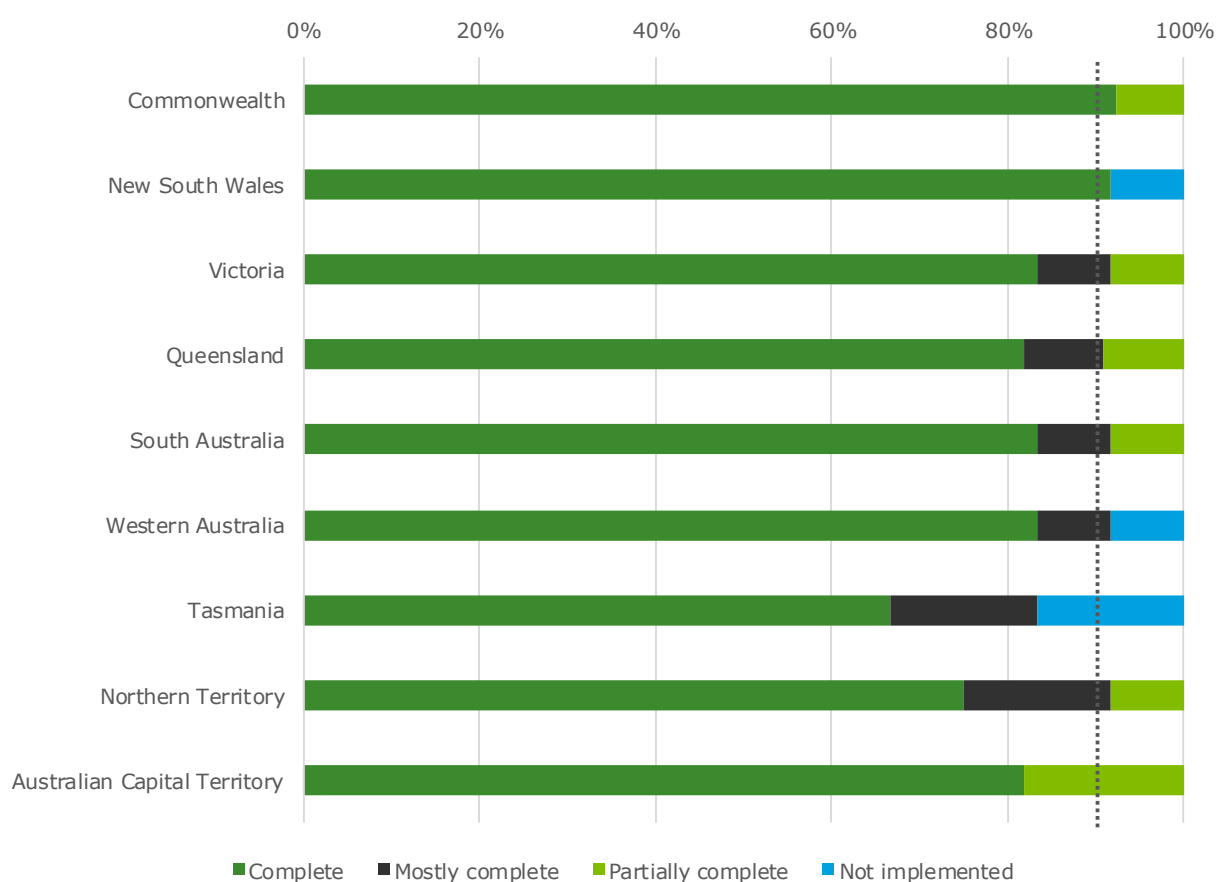
All jurisdictions have made efforts to address the recommendations relating to post-death investigations. To fully address all recommendations, there are some remaining gaps with respect to post death notification procedures, the duties of counsel assisting the coroner, and post-mortem procedures.

The justice system

The RCIADIC called for action to reduce the number of Aboriginal and Torres Strait Islander youth coming into contact with the justice system. In recognition of the wider social and economic factors that drive incarceration, the recommendations also called for policies to support Aboriginal and Torres Strait Islander culture and to improve relationships between Aboriginal and Torres Strait Islander people and the rest of the Australian community.

The average implementation status for each jurisdiction in relation to the justice system (recommendations 48-62) is shown in Chart iv.

Chart iv Average implementation status – the justice system



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** has developed strategies and provided funding to improve community safety and address the drivers of Aboriginal and Torres Strait Islander incarceration. The National Aboriginal and Torres Strait Islander Social Survey (NATSISS) collects data on the social and economic wellbeing of Aboriginal and Torres Strait Islander people. Ethical guidelines have also been developed to govern research involving Aboriginal and Torres Strait Islander people.
- The **New South Wales** Government currently receives advice in relation to justice policy from a range of Aboriginal advisory committees including the Corrective Services NSW AAC and the Juvenile Justice Aboriginal Strategic Advisory Committee. Four Aboriginal Regional Advisory Committees also advise on services, planning and support relevant to Juvenile Justice. There are also a number of Aboriginal Consultative Committees with representatives from local Aboriginal organisations and services programs advising Juvenile Detention Centres on relevant local issues to support Aboriginal young people. Conversations with community are also ongoing as part of the delivery of the Opportunity, Choice, Healing, Responsibility, Empowerment plan (OCHRE). OCHRE

is the NSW Government's plan for Aboriginal affairs. The plan invests in language and culture, healing, Aboriginal governance, education and employment. Implementation and evaluation takes place using a genuine co-design approach with Aboriginal at the centre of decision making. The conversations occurring between communities and the NSW Government can cover a range of issues. Some communities including the Illawarra Wingecarribee have chosen to develop initiatives with Government to address justice issues. Funding is provided for Link Up NSW, and legislation has responded to the abuse of alcohol and drugs, the Aboriginal Child Placement Principle and the essential role of child care agencies.

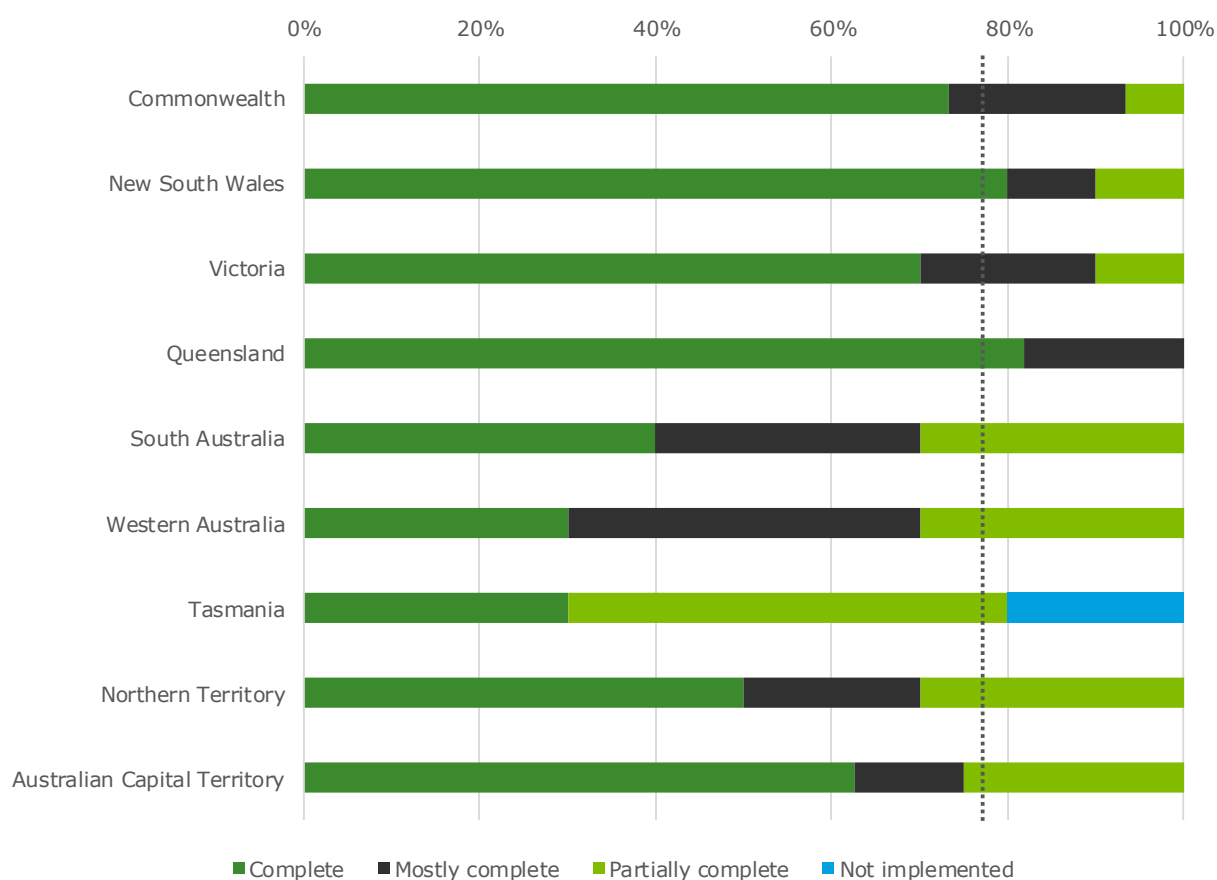
- The **Victorian** Government has established a Human Research Ethics Committee to implement National Health and Medical Research Council (NHMRC) guidelines governing research involving Aboriginal and Torres Strait Islander people. Legislation has been introduced in response to child placement and child agencies, as well as the misuse of alcohol and drugs among Aboriginal and Torres Strait Islander people.
- The **Queensland** Government has addressed recommendations relating to the involvement of Aboriginal and Torres Strait Islander people in health research through incorporating the NHMRC guidelines. Link Up Queensland is jointly funded by both the Commonwealth and Queensland governments, and legislation has been introduced in response to recommendations relating to child placement.
- The **South Australian** Government has implemented the NHMRC guidelines through the function of the Aboriginal Health Research Ethics Committee. Legal aid has been provided for Aboriginal and Torres Strait Islander people through Nunkuwarrin Yunti's Link-Up South Australia Program. The underlying drivers of Aboriginal and Torres Strait Islander incarceration, including health and social issues, have been addressed through legislative response and the introduction of programs.
- The **Western Australian** Government has addressed recommendations related to health research and implemented NHMRC guidelines through the WAAHEC. Funding is provided to the Yorgum Aboriginal Corporation for the administration of Link-Up WA. Programs have also been implemented to address factors underlying Aboriginal and Torres Strait Islander cultural issues, and to provide opportunities for the sharing of culture.
- The **Tasmanian** Government has incorporated the NHMRC's guidelines and addressed recommendations relating to the involvement of Aboriginal and Torres Strait Islander people in research through the Health and Medical Human Research Ethics Committee. A range of legislation and policy initiatives have been introduced to address underlying drivers of Aboriginal and Torres Strait Islander incarceration, including efforts in respect to child placement and the misuse of drugs and alcohol.
- The **Northern Territory** Government has addressed the underlying drivers of Aboriginal and Torres Strait Islander incarceration through a range of legislative and policy initiatives. In relation to recommendations concerning the involvement of Aboriginal and Torres Strait Islander people in health research, two committees (the Top End Human Research Ethics Committee (HREC) and the Central Australian HREC) are responsible for approving health-related research.
- The **Australian Capital Territory** Government has introduced legislation and policy responses to address issues including child placement and the misuse of drug and alcohol among Aboriginal and Torres Strait Islander people. Recommendations related to Aboriginal and Torres Strait Islander participation in health research have been addressed through the Research Ethics and Governance Office which incorporates the NHMRC guidelines.

Approximately 82% of recommendations relating to the justice system have been implemented in full across all jurisdictions. There are some remaining gaps in relation to the right of appeal for persons excluded from a hotel, funding for legal representation for the families of Aboriginal and Torres Strait Islander people who die in custody, and granting access to family records.

Aboriginal and Torres Strait Islander disadvantage

The RCIADIC called for improved incorporation of the perspectives of Aboriginal and Torres Strait Islander people into policy, as well as a greater understanding of the social and cultural factors in designing policy. The average implementation status for each jurisdiction in relation to Aboriginal and Torres Strait Islander disadvantage (recommendations 63-78) is shown in Chart v. Queensland's strong performance in this area reflects that it has mostly or fully completed all recommendations, with action taken across areas including alcohol misuse and harm, school attendance, and community infrastructure programs.

Chart v Average implementation status – Aboriginal and Torres Strait Islander disadvantage



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** Government has supported ongoing research into alcohol and drug issues facing Aboriginal and Torres Strait Islander communities through initiatives including the National Drug Strategy (NDS) and NHMRC. The Commonwealth has made progress to identify Aboriginal and Torres Strait Islander people in administrative data sets. The National Partnership Agreement (NPA) on Remote Indigenous Housing and the National Indigenous Infrastructure guide seek to incorporate the views of Aboriginal and Torres Strait Islander people in the provision of infrastructure, housing, and town planning.
- The **New South Wales** Government has introduced measures to improve the reporting and linkages of datasets relating to Aboriginal and Torres Strait Islander people. Policies have been introduced to provide a holistic approach to responding to alcohol and drug misuse. School attendance has been promoted through initiatives including the Connected Communities Strategy.
- The **Victorian** Government has maintained a commitment to designing, monitoring, and evaluating Aboriginal and Torres Strait Islander issues and programs in partnerships with communities. The Koori Alcohol Action Plan 2010 20 and the Koori Education Workforce

respectively address alcohol misuse and school attendance. Funding for community infrastructure programs has also been administered.

- The **Queensland** Government has recorded the Aboriginal and Torres Strait Islander status of patients in all hospital data collections. Queensland continues to practice a partnership based approach in cooperation with communities to review Alcohol Management Plans and to develop strategies to combat the causes of alcohol misuse and harm. A range of policies have been introduced to address school attendance and support of community infrastructure programs.
- The **South Australian** Government addresses multiple contributory factors to alcohol and drug misuse through policies and programs for Aboriginal and Torres Strait Islander people. The Attendance Strategy 2017 2020 introduces measures to promote school attendance. Community infrastructure programs are supported through funding and governance arrangements.
- The **Western Australian** Government supports research into the nature of alcohol and drug misuse through a range of initiatives. The publication of an Indigenous Status Flag in government datasets has improved the recognition of Aboriginal and Torres Strait Islander people in statistics.
- The **Tasmanian** Government has attempted to address the collection and reporting of data relating to Aboriginal and Torres Strait Islander people through the Bilateral Indigenous Plan on the Data Quality Improvement Subcommittee. This work continues through the implementation of the Cultural Respect Framework for health services delivered by the Tasmanian Government. Access to both compulsory and post-compulsory education is supported by Aboriginal Education Services in the Department of Education and TasTAFE (Technical and Further Education). The Tasmanian Government's agenda to Reset the Relationship with Tasmanian Aboriginal people commits to addressing disadvantage through continuing to deliver initiatives under the Closing the Gap framework.
- The **Northern Territory** Government has implemented a number of policies to address and monitor alcohol misuse among Aboriginal and Torres Strait Islander people, including the 2017 Riley Review into alcohol policies and legislation. The Northern Territory contributes to schemes to support community projects, and to ensure Aboriginal and Torres Strait Islander participation in housing design processes.
- The **Australian Capital Territory** Government continually consults with the local community on health related initiatives, including alcohol and other substance misuse. A range of strategies have been implemented to address school attendance issues, including the employment of Aboriginal and Torres Strait Islander Education Officers.

In order to fully implement the recommendations, the following actions could be pursued:

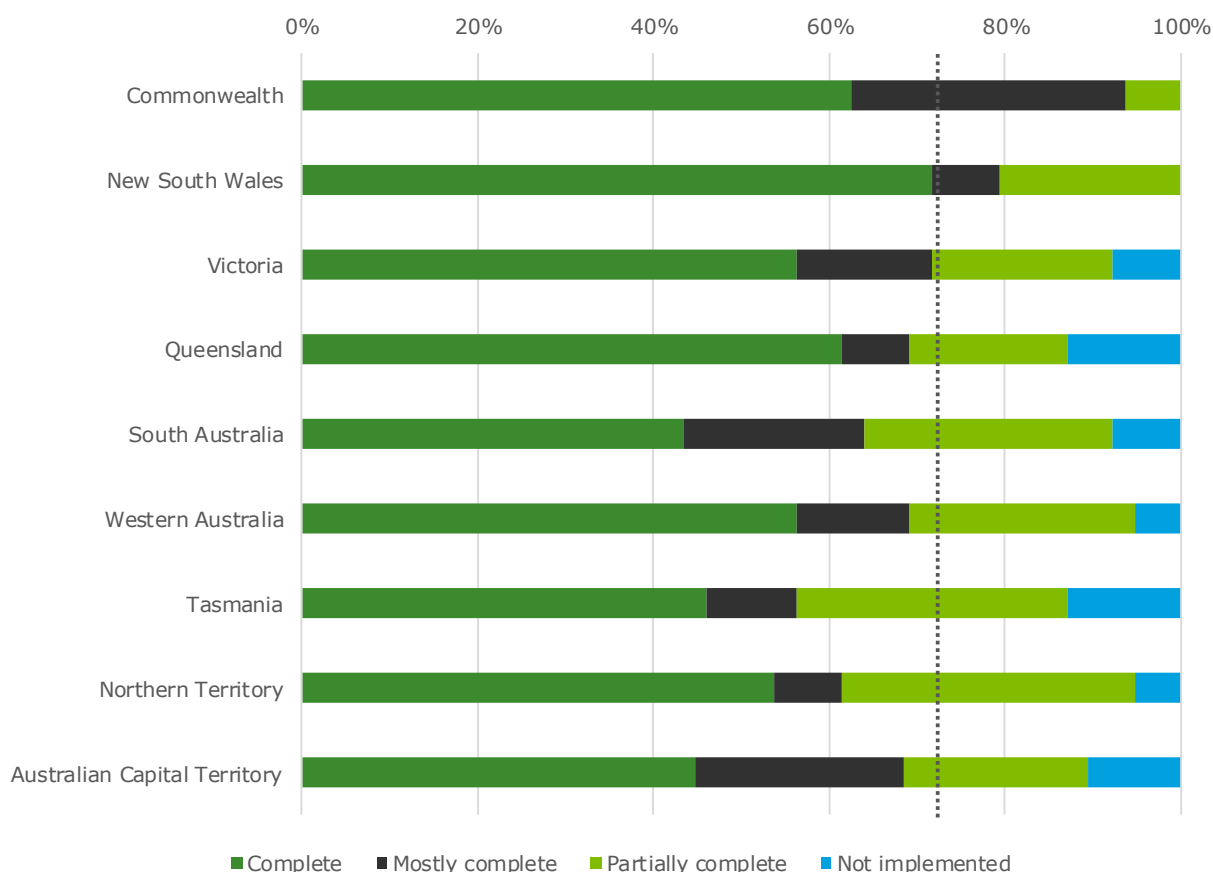
- More research into the specific nature and causes of alcohol dependence and misuse in Aboriginal and Torres Strait Islander communities. Further attention should be to understanding this area, and subsequently establishing renewed prevention, intervention and treatment approaches.
- Refocusing Commonwealth-led policies to reduce truancy in the Northern Territory to align with the primary principle of support recommended by RCIADIC, instead of the current focus on income management.
- Continued work on the identification of Aboriginal and Torres Strait Islander people in administrative datasets.
- Ensuring that access to road funding for Aboriginal and Torres Strait Islander communities is equitable with funding provided to other local governments.

Non-custodial approaches

The RCIADIC was concerned that Aboriginal and Torres Strait Islander people were being imprisoned over minor offences, and provided recommendation around ensuring that imprisonment is used as last resort.

The average implementation status for each jurisdiction in relation to non-custodial approaches (recommendations 79-121) is shown in Chart vi.

Chart vi Average implementation status – non-custodial approaches



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** has reinforced the principle of imprisonment as a last resort through AFP training and procedures. Funding is provided for legal representation and interpretation services for Aboriginal and Torres Strait Islander people. The Federal Circuit Court and the Aboriginal and Torres Strait Islander Legal Service (ATSILS) provide services in regional and remote areas. The Federal Courts have implemented cross-cultural training programs.
- The **New South Wales** Government has introduced diversionary pathways and recognised the principle of imprisonment as a last resort under the Law Enforcement (Powers and Responsibilities) Act 2003 (NSW). Alcohol and drug misuse has been addressed through various policy responses, including the introduction of sobering up centres and Mandatory Alcohol Interlocks.
- The **Victorian** Government provides that arrest should be a last resort, and has introduced non-custodial sentencing options through legislation. Measures to address alcohol misuse among Aboriginal and Torres Strait Islander people are continually monitored and improved upon, and remain a priority area under the Aboriginal Justice Agreements.

- The **Queensland** Government has introduced sobering up centres and continued monitoring of alcohol related policies under the *Liquor Act 1992 (Qld)*. Research has been conducted into the rehabilitative needs and treatment of Aboriginal and Torres Strait Islander people, and a database with information on recidivism has been maintained.
- The **South Australian** Government administers a range of drug and alcohol services through the Specialist Drug and Alcohol Assessment and Treatment Services Program. The South Australian Government has also introduced a range of non-custodial sentencing options, and employment initiatives for the recruitment of Aboriginal and Torres Strait Islander people into justice roles.
- The **Western Australian** Government has introduced sobering-up centres and provide that these should be a first port of call for police dealing with intoxicated persons. The implementation of legislation has provided imprisonment as a last resort, introduced non-custodial sentencing alternatives, and addressed elements related to youth justice.
- The **Tasmanian** Government has introduced non-custodial sentencing under the Sentencing Amendment (Phasing Out of Suspended Sentences) Bill 2017 (Tas). Cultural awareness has also been incorporated into training programs in the justice system, in line with benchbooks from other states.
- The **Northern Territory's** *New Era in Corrections* policy represented an undertaking to recruit sufficient staff to implement community based orders and electronic monitoring. Support for reduced recidivism in driving related offences is provided through DriveSafe NT and the Elders Visiting Program.
- The **Australian Capital Territory** has introduced the Crimes (Sentencing) Act 2005 (ACT) in response to recommendations which called for arrest as a sanction of last resort and the introduction of non-custodial sentencing. Programs are provided to address cultural awareness among justice staff, to reduce recidivism concerning alcohol related offences, and to recruit more Aboriginal and Torres Strait Islander people into the justice system.

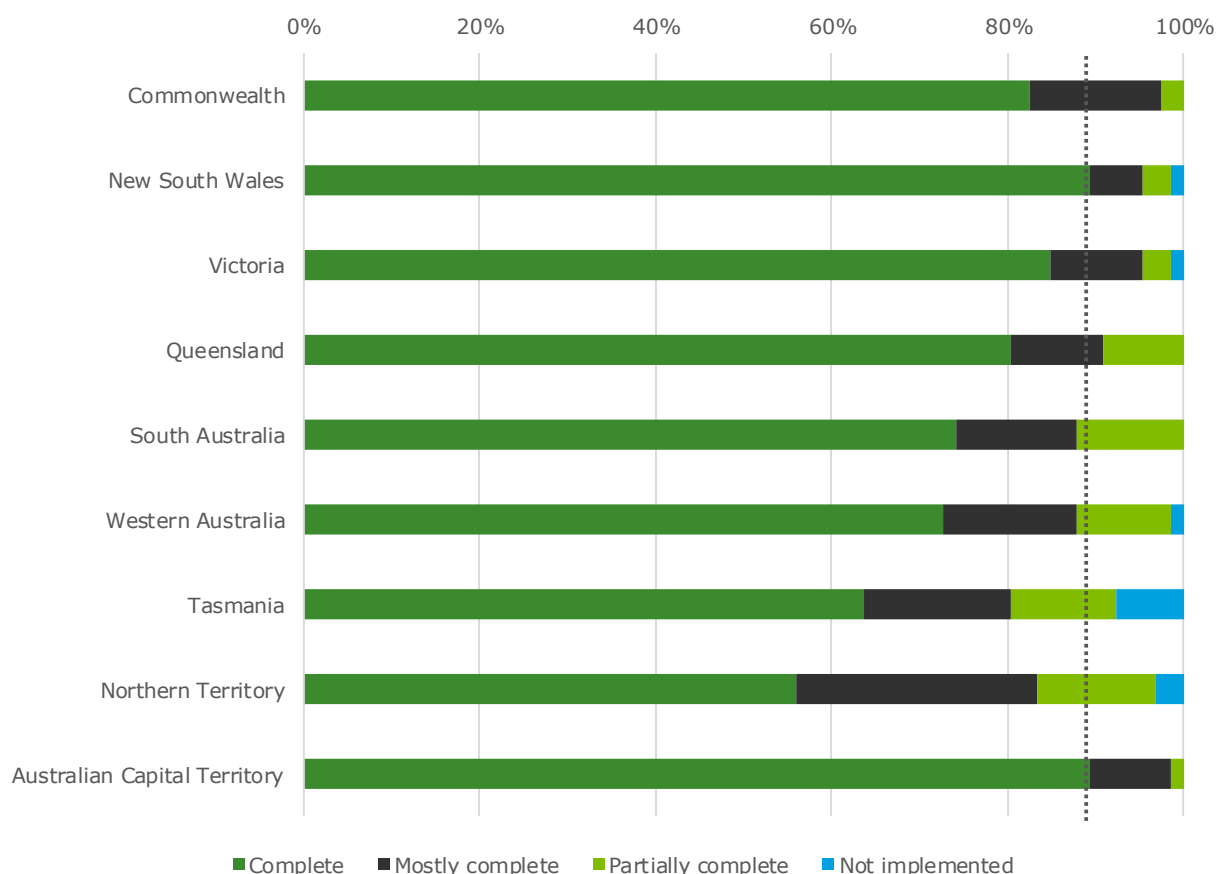
Approximately 55% of recommendations relating to non-custodial approaches have been completely implemented, a lower percentage than the average across all recommendations. While some progress has been made across a number of the recommendations, further action across most jurisdictions is required in relation to prioritising non-custodial sentencing options, such as work orders and home detention as a means of early release; ensuring that imprisonment is a last resort and people are not being held in custody due to problems with bail legislation; and ensuring that Aboriginal and Torres Strait Islander detainees have access to appropriate supports, including interpretation services, when facing charges.

Prison safety

The RCIADIC found that the particular needs and health and safety concerns for Aboriginal and Torres Strait Islander people in custody need to be recognised and greater support should be provided for Aboriginal and Torres Strait Islander people in corrective institutions.

The average implementation status for each jurisdiction in relation to prison safety (recommendations 122-187) is shown in Chart vii.

Chart vii Average implementation status – prison safety



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** has addressed recommendations relating to custodial health and safety, and the prison experience through the AFP National Guideline and revised procedures. Training requirements have been extended to include a focus on first aid, resuscitation and cultural awareness for AFP members. The AFP also has greater linkages and notifications systems between policing, corrective services, and Aboriginal and Torres Strait Islander organisations.
- The **New South Wales** Government has introduced an inter-agency approach to ensuring the delivery of health services in prison, and has responded to recommendations in relation to prisoner care through the NSW Police Force: Code of Practice for CRIME and legislation. Personal development programs, and training courses in first aid, resuscitation, and cultural awareness, have been introduced to implement the recommendations in this chapter.
- The **Victorian** Government has updated the Victoria Police Operating Procedures Manual and the Corrections Act 1986 (Vic) to reflect the principles of recommendations relating to prisoner health and safety, and the prison experience. Attention paid to the adequacy of health service delivery has been ongoing through Aboriginal Justice Agreements. Personal development programmes and

revised training requirements have been introduced to respond to the recommendations in this chapter.

- The **Queensland** Government has introduced measures to improve the prisoner experience and to ensure the adequacy of health service delivery to prisoners. Work experience and further education initiatives, and renewed training requirements, have also been implemented in response to the recommendations in this chapter.
- The **South Australian** Government has prioritised the provision of care and health services to prisoners through legislative and policy response. Emphasis has been placed on first aid, and cultural awareness training; and a range of personal development programs have been introduced as alternative sentencing options.
- The **Western Australian** Government has responded to recommendations relating to the provision of prisoner health and safety through legislation and policy. Professional development, improved screening for health services, and the provision of cultural awareness training have been introduced as part of the response to recommendations in this chapter.
- The **Tasmanian** Government has incorporated the intent of recommendations relating to prisoner health and safety into the Tasmania Police Manual and other procedures. Additionally, training requirements now incorporate a focus on first aid, resuscitation, and cultural awareness among police officers and other justice staff.
- The **Northern Territory** Government has addressed prisoner care, and extended the provision of health services, through procedural documents including General Orders and the Correctional Services Act 2014 (NT). Personal development programs have been introduced in an attempt to reduce recidivism; and training requirements cover first aid, resuscitation, and cultural awareness.
- The **Australian Capital Territory** Government has implemented the AFP National Guideline which incorporates provisions related to custodial health and safety, and the prison experience. The AFP has prioritised the establishment of interconnectedness between policing, corrective services, and Aboriginal and Torres Strait Islander organisations as it concerns notifications procedures. Training requirements have also been updated in line with the recommendations contained in this chapter, and currently place focus on first aid, resuscitation, and cultural awareness of AFP members and other justice staff.

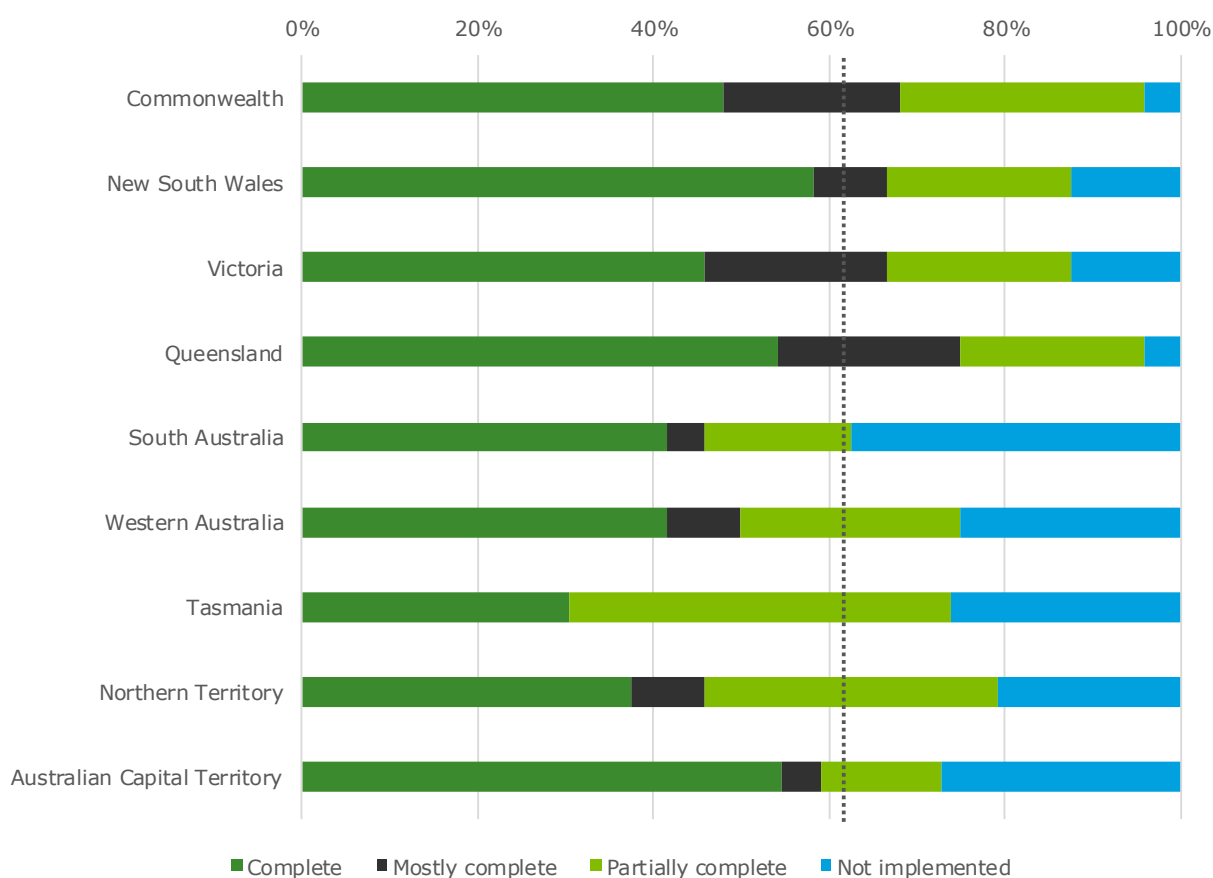
A majority of the recommendations relating to prison safety have been completely implemented. The areas where jurisdictions have not fully implemented the recommendations include the continued use of padded cells in a number of jurisdictions, police are not required to breath test detainees in all jurisdictions if they suspect the detainee is intoxicated and the regular in person checking of detainees in custody.

Self-determination

The RCIADIC recommended that the principle of self-determination needs to be defined, and steps taken to enhance the level of self-determination among Aboriginal and Torres Strait Islander people. The RCIADIC also called for action to encourage Aboriginal and Torres Strait Islander participation in the media to educate non-Aboriginal and Torres Strait Islander people and improve community attitudes.

The average implementation status for each jurisdiction in relation to self-determination (recommendations 118-213) is shown in Chart viii.

Chart viii Average implementation status – self-determination



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following 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 Indigenous Advancement Strategy (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.
- The **New South Wales** Government has a Protecting Aboriginal Cultural Heritage Policy to ensure that Aboriginal cultural heritage sites are preserved. Under the National Parks and Wildlife Act 1974 (NSW), it is an offence to harm or desecrate an Aboriginal object or Aboriginal place. OCHRE supports the teaching of Aboriginal languages and culture in NSW Schools via Language and Culture nests, Aboriginal Languages legislation was enacted in 2017. 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 Cultural Tourism

Development Program engages with Aboriginal communities and individuals identified for their potential to develop and deliver a new and/or enhanced cultural tourism experience within national parks. Since 2008-09, National Parks and Wildlife Service has managed an Aboriginal Park Partnerships Funding program which has supported more than 200 projects with Aboriginal communities. Many of these projects aim to share and celebrate Aboriginal culture and support Aboriginal people's ongoing connection to country. In addition, five Aboriginal Language and Culture Nests established under OCHRE in Dubbo, Lightning Ridge, Wilcannia, Coffs Harbour and Lismore have also been established to increase the number of students learning Aboriginal languages in schools.

- 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.
- The **Queensland** Government has undertaken significant action to promote the principle of self-determination in policymaking, 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.
- 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.
- 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.
- The **Tasmania** Government has addressed the principle of self-determination through the Reset agenda. This agenda has driven increased engagement between the Government and the Aboriginal community to facilitate stronger participation by individuals and organisations in matters relating to Aboriginal Affairs. Tasmania has also implemented anti-discrimination measures through cross-cultural training and activities led by the Office of the Anti-Discrimination Commissioner.
- 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.
- The **Australian Capital Territory** 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.

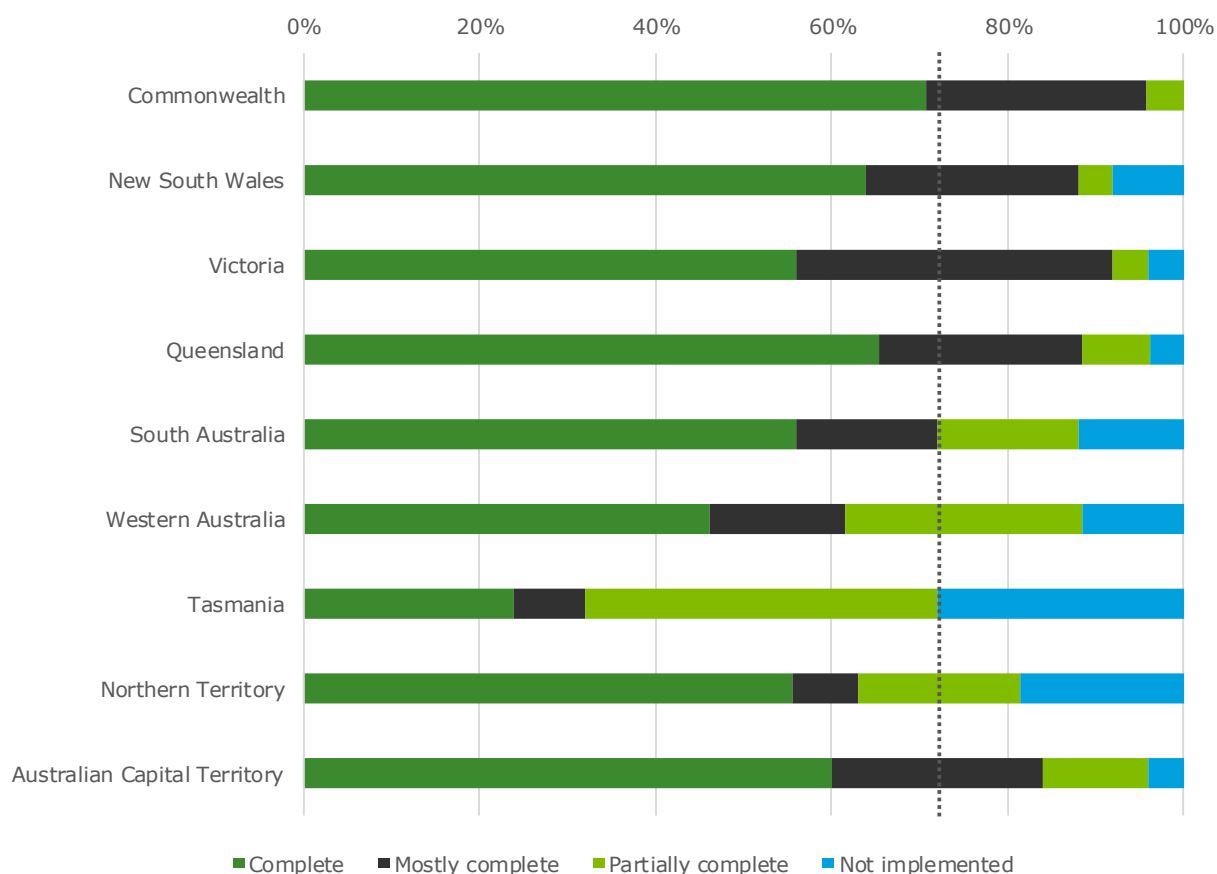
Further work is required across all jurisdictions to address the recommendations relating to funding arrangements for Aboriginal and Torres Strait Islander communities and organisations, and measuring the performance of these organisations in delivering services. Further development of culturally appropriate journalism course content is also required to better meet the RCIADIC recommendations in some jurisdictions.

Cycle of offending

The RCIADIC called for action to reduce reoffending by improving relations between Aboriginal and Torres Strait Islander people and police services, and providing appropriate assistance for young people in custody to divert young people away from the criminal justice system.

The average implementation status for each jurisdiction in relation to cycle of offending (recommendations 214-245) is shown in Chart ix.

Chart ix Average implementation status – cycle of offending



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** has developed several programs in collaboration with Aboriginal and Torres Strait Islander Commissioner (ATSIC) to prevent the detention of youths, and has offered enhanced youth support through welfare programs and legal representation.
- The **New South Wales** Government has established relevant bodies and roles, such as the Aboriginal Community Liaison Officer State Coordinator, to improve relations between Aboriginal and Torres Strait Islander people and the NSW Police. NSW has also introduced legislative measures under the Young Offenders Act 1997, along with Police Commissioner's Instructions, to reduce the incarceration of Aboriginal and Torres Strait Islander youths.
- The **Victorian** Government has sought to improve support for community policing and engagement of Aboriginal and Torres Strait Islander communities through the establishment of Regional Aboriginal Justice Advisory Committees. Victoria has also implemented protocols to ensure that the Victorian Aboriginal Legal Service and Aboriginal Community Justice Panels are notified when a person is brought into custody.
- The **Queensland** Government requires all of the Queensland Police Service's relevant policies to be developed in consultation with Aboriginal and Torres Strait Islander stakeholders and has

employed Police Liaison Officers to support relationship building. Queensland has also implemented clear protocols for the notification of the Aboriginal and Torres Strait Legal Service when people are arrested or detained.

- **South Australia Police** (SAPOL) has established a dedicated Aboriginal and Multicultural Unit and employed Aboriginal Liaison Officers to improve stakeholder engagement. Clear procedures for a range of matters are also defined in four Memorandums of Administrative Arrangement with the Department of Human Services, and in sections of the *Young Offenders Act 1993* (SA) and the *Youth Justice Administration Act 2016* (SA).
- **Western Australia** has addressed recommendations relating to representation of Aboriginal and Torres Strait Islanders within the police force by establishing a special governance committee and the Aboriginal and Community Diversity Unit. Community engagement and youth justice support is also provided.
- The **Tasmanian** Police have sought to improve relations with local communities through Aboriginal Liaison Officers and regular consultation via the Police Commissioner's Consultative Committee. Protections for juveniles in the justice system have also been enshrined in the *Children, Young Persons and their Families Act 1997*.
- The **Northern Territory** Police Force has implemented initiatives to address relations between the police and local communities such as the Community Engagement Police Officer program. The Northern Territory has also taken jurisdiction-specific action by incorporating the now defunct Aboriginal Community Justice Project's objectives into practice.
- The AFP is working to improve relations with Aboriginal and Torres Strait Islander people. For example, the **Australian Capital Territory** Policing Aboriginal and Torres Strait Islander Community Liaison Officer assists with active community engagement between police and Aboriginal and Torres Strait Islander communities. In addition, the AFP has implemented strong internal governance processes to ensure police proceed with caution when apprehending juvenile offenders, in line with the RCIADIC recommendations.

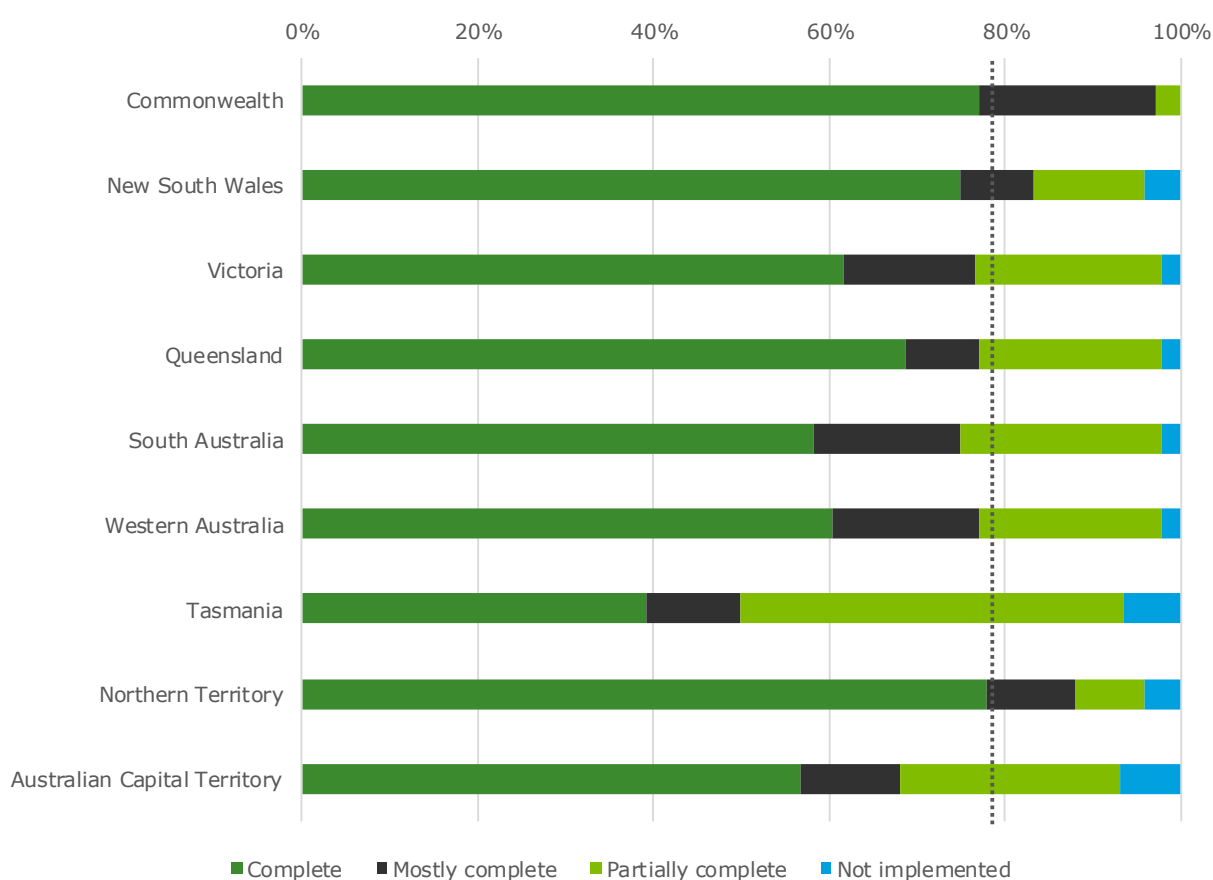
In order to fully implement the recommendations, some jurisdictions need to report on the implementation of customary law, as per recommendations outlined in a report published by the Australian Law Reform Commission (ALRC). In addition, further progress is required to improve police recruitment practices and police caution procedures for youths in order to more fully meet the objectives of the RCIADIC recommendations. Further development of protocols in some jurisdictions for complaints to the police is required to ensure that Aboriginal and Torres Strait Islander complainants receive appropriate protections and assistance.

Health and education

The RCIADIC found that health services needed to be more culturally sensitive, and the development of health frameworks for Aboriginal and Torres Strait Islander communities needed to be based on evidence. It also found that further steps need to be taken to address educational disadvantage among Aboriginal and Torres Strait Islander students and provide meaningful education experiences.

The average implementation status for each jurisdiction in relation to health and education (recommendations 246-299) is shown in Chart x. The Northern Territory's strong performance in this area reflects two significant programs – the *Northern Territory Aboriginal Health Key Performance Indicator Information System*, and the *Cultural Security Framework 2016-2026* – that have been implemented across the NT healthcare system.

Chart x Average implementation status – health and education



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** has made substantial progress towards providing a health framework that better accommodates the needs of Aboriginal and Torres Strait Islander communities. Major Commonwealth policies, such as Closing the Gap and the National Aboriginal and Torres Strait Islander Health Plan (NATSIHP), have improved engagement with Aboriginal and Torres Strait Islander communities in service design and delivery. In addition, education and training initiatives have been prioritised and mental health programs have been implemented successfully.
- The **New South Wales** Government has committed to improved reporting and health data collection as part of the New South Wales Aboriginal Health Plan 2013-2023 and the Aboriginal and Torres Strait Islander Health Performance Framework. In addition, the NSW Government has made employment in health, specifically mental health, a significant priority through initiatives such as the Aboriginal Mental Health Traineeship Program.

- The **Victorian** Government has prioritised health reporting as part of the Koolin Balit Victorian Government Strategic Direction for Aboriginal Health 2012-2022. Victoria has also implemented significant initiatives targeted at mental health, including the Victorian Aboriginal Suicide Prevention and Response Action Plan 2010-15.
- **Queensland** has invested in evidence based health initiatives as part of Making Tracks: Toward closing the gap in health outcomes for Indigenous Queenslanders by 2033, including early intervention and drug and alcohol training. The Government has also committed to improved mental health outcomes and service provision through the Queensland Health Aboriginal and Torres Strait Islander Mental Health Strategy 2016-2021.
- **South Australia** has implemented initiatives to prioritise Aboriginal and Torres Strait Islander health data collection, including the production of an Aboriginal Health supplement to the SA Health Statistics Chart Book, along with provision of cross-cultural awareness training in drug and alcohol treatment through Drug and Alcohol Services SA.
- **Western Australia** has implemented initiatives such as cultural training in the health and education workforce, information sharing, representation and collaboration of Aboriginal and Torres Strait Islanders in health and education policy.
- **Tasmania** has several forums in which Aboriginal community members and organisations participate to directly influence the delivery of health and education services, ranging from the early years to mental health to curriculum development. There are also numerous Aboriginal-identified roles within the health and education sectors to enable service delivery by Aboriginal people to Aboriginal clients.
- The **Northern Territory** has undertaken several initiatives to improve health policies and service delivery, including development of the Northern Territory Aboriginal Health Key Performance Indicator Information System, and implementation of the NT Cultural Security Framework 2016-2026 across all NT health services.
- The **Australian Capital Territory** Government has sought to improve health outcomes by appointing Aboriginal and Torres Strait Islander liaison officers in hospitals, and by regularly reviewing emergency protocols to ensure they are culturally appropriate. The ACT Government has also committed to developing culturally appropriate curricula by consulting with community members on incorporating Aboriginal and Torres Strait Islander perspectives and cultures

In relation to health, the following actions are required to fully address the recommendations:

- a more thorough evaluation of Aboriginal Community Controlled Health Organisations (ACCHOs);
- specific funding for the training of Aboriginal and Torres Strait Islander mental health workers;
- greater consideration of cultural need in the health sector to ensure culturally sensitive care, including more thorough consultation procedures with stakeholders on the design and management of health facilities, and more equitable access to specialised equipment; and
- the introduction of affirmative action policies in all jurisdictions to promote Aboriginal and Torres Strait Islander employment in health.

Further consideration of alcohol-related measures is also needed, including additional funding for compliance monitoring of liquor licensing, the potential for community workers to conduct inspections of licensed premises and reducing the number of licensed premises to restrict the sale of alcohol.

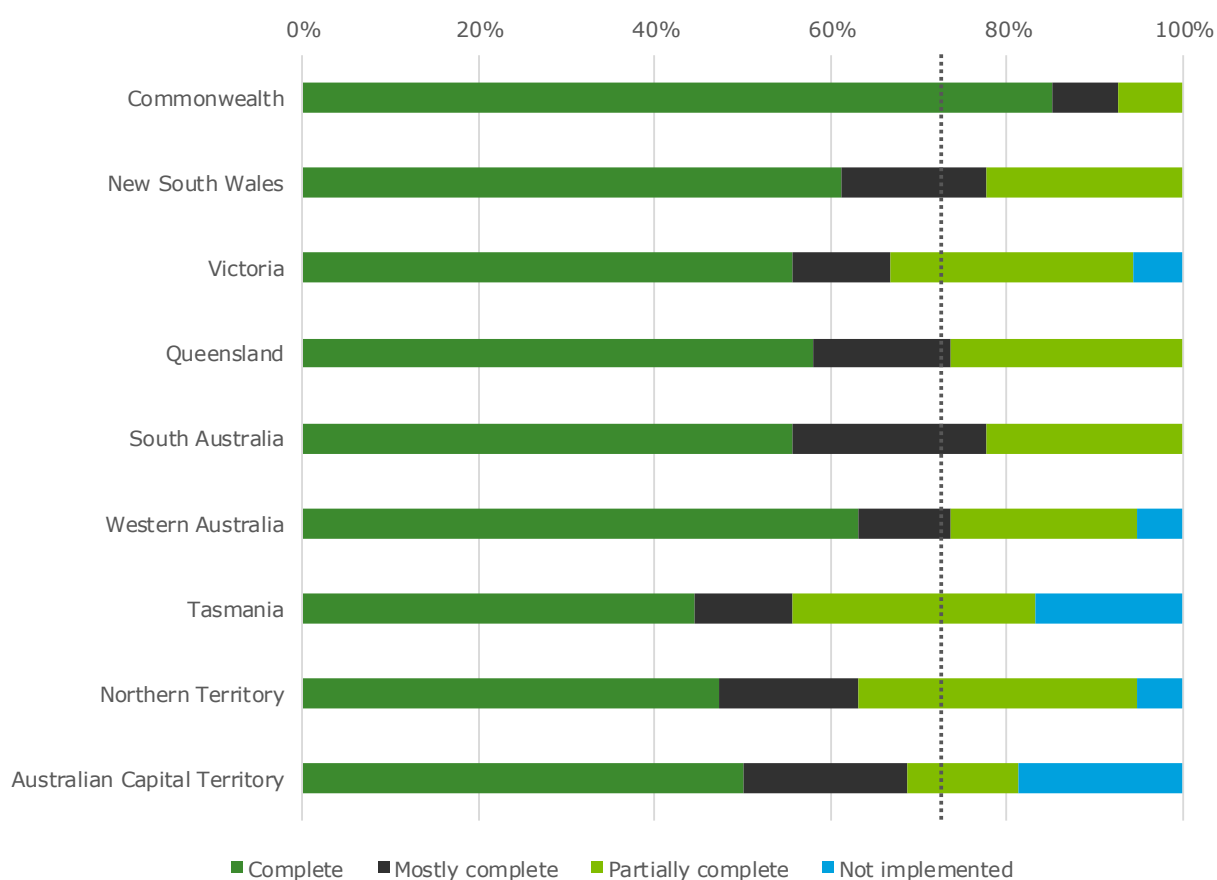
There is also a need for greater cultural consideration in education, including incorporating social issues into the curricula for Aboriginal and Torres Strait Islander students, and appropriate recognition of Aboriginal Education Workers.

Equal opportunity

The RCIADIC found that Aboriginal and Torres Strait Islander people face particularly significant disadvantage in participating in the labour force due to discrimination, low levels of formal education, and cultural imperatives. The RCIADIC recommended providing additional support to address these issues.

The average implementation status for each jurisdiction in relation to equal opportunity (recommendations 300-327) is shown in Chart xi. The Commonwealth's strong performance in this area reflects that it supports private and public sector employment of Aboriginal and Torres Strait Islander people through funding and employment targets, and the Indigenous Procurement Policy.

Chart xi Average implementation status – equal opportunity



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** funds a number of programs that assist private sector employers to employ Aboriginal and Torres Strait Islander people, including Tailored Assistance Employment Grants. In addition, the Commonwealth launched the Indigenous Procurement Policy in 2015, which has resulted in more than \$407 million worth of contracts being won by Aboriginal and Torres Strait Islander businesses. The Commonwealth has also addressed employment outcomes through the Employment Parity Initiative and Vocational Training and Employment Centres initiatives.
- The **New South Wales** Government implemented programs dedicated to improving Aboriginal and Torres Strait Islander employment, such as the Aboriginal Enterprise Development Officer Program and the Careers for Aboriginal People Program. In addition, the NSW Government has taken steps to improve outcomes in the Aboriginal and Torres Strait Islander community-housing sector through the Aboriginal Rental Housing Program.

- The **Victorian** Government has introduced a range of employment strategies and programs, such as the Victorian Aboriginal Economic Strategy to improve economic opportunity for Aboriginal and Torres Strait Islander people. Victoria has also addressed opportunities in the housing sector by encouraging the training and development of tradespeople through activities undertaken by the Aboriginal Housing Board.
- The **Queensland** Government has taken steps to improve employment through the Queensland Aboriginal and Torres Strait Islander Economic Participation Action Plan and through employment targets in the Public Service. Queensland has also addressed a jurisdiction-specific recommendation through the Building our Regions program, designed to improve economic independence and self-sufficiency of residents in remote communities.
- **South Australia** has sought to improve employment outcomes for Aboriginal and Torres Strait Islander people through its Strategic Plan, which sets employment targets, including in the public sector. South Australia also aims to support Aboriginal and Torres Strait Islander businesses through the Aboriginal Business Procurement Policy.
- **Western Australia** has implemented initiatives to improve employment of Aboriginal and Torres Strait Islanders such as the 'Attract, Appoint and Advance: an employment strategy for Aboriginal people' policy in the public sector and policy of using local suppliers in remote Aboriginal and Torres Strait Islander communities.
- In **Tasmania**, access to employment for Aboriginal people in the Tasmanian State Service is underpinned by Employment Direction No.10, which provides for identified and tagged positions. The Tasmanian Government is committed to the development of an Aboriginal Employment Strategy in the State Service, which targets employment. Access to equal opportunity in housing for Aboriginal people in remote locations is delivered by the Stronger Remote Aboriginal Services project, specifically for Flinders and Cape Barren Islands.
- The **Northern Territory** Government has implemented initiatives to improve employment, such as the Indigenous Employment Program. The Northern Territory has also developed the Northern Territory Procurement Policy, which gives preference for the letting of contracts to employers of Aboriginal and Torres Strait Islander people.
- The **Australian Capital Territory** Government has introduced labour market programs and employment targets to support greater Aboriginal and Torres Strait Islander employment in the public and private sectors. There has also been greater support of Aboriginal and Torres Strait Islander housing through the funding of homemaking skills through TAFE, and the provision of Liaison Officers to assist Housing ACT clients.

In order to fully implement the recommendations, the following actions are required:

- research on the impact of the taxation system on Aboriginal and Torres Strait Islander people.
- changing government procurement processes as not all Government contracts support the preferential letting of government contracts to employers of Aboriginal and Torres Strait Islander employees.
- further development of notification mechanisms relating to mining and tourism developments of culturally relevant land.
- further development of local employment promotion committees and active labour market programs to ensure that they are specifically designed to support Aboriginal and Torres Strait Islander people.

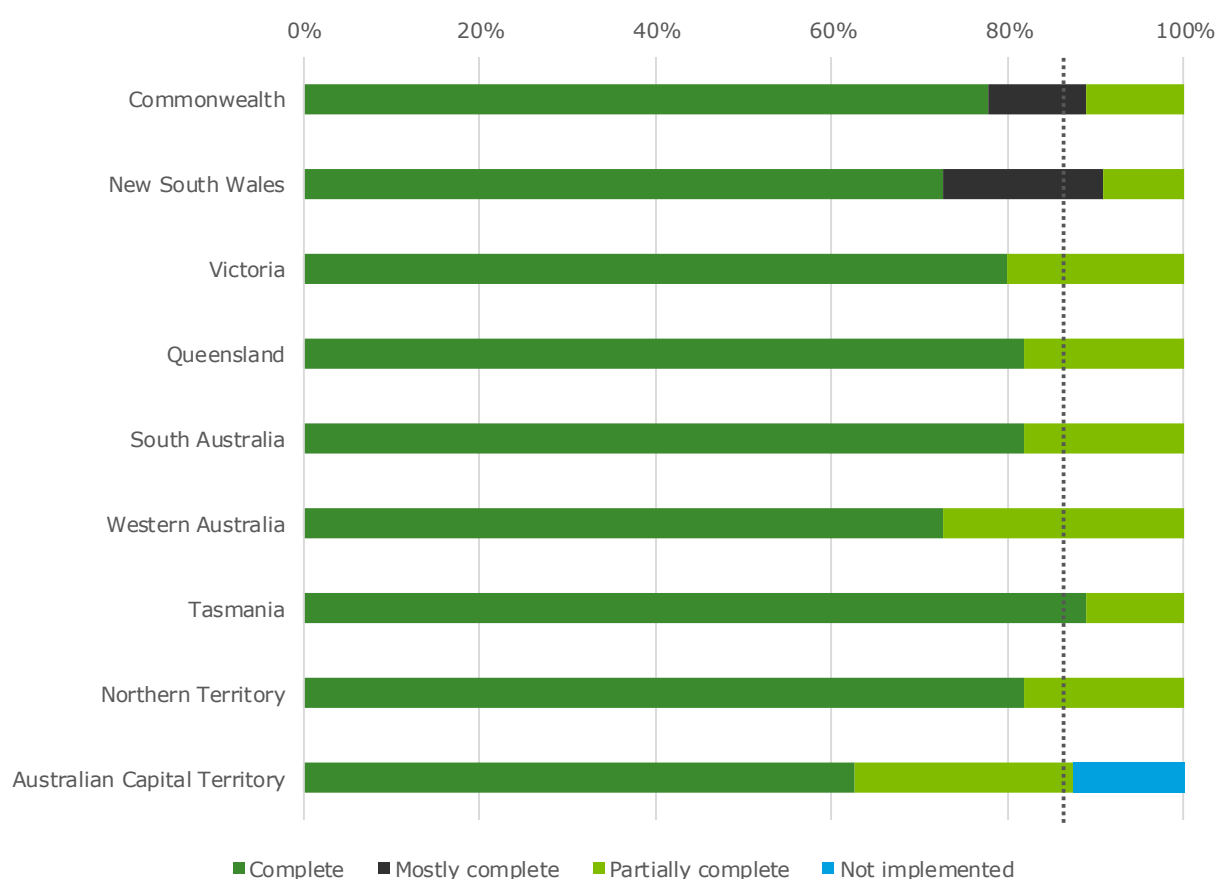
Reconciliation, land needs and international obligations

The RCIADIC noted that land plays a central role in the identity of Aboriginal and Torres Strait Islander people, and that land rights are vitally important to ensuring that Aboriginal and Torres Strait Islander communities can preserve the cultural, historical and traditional integrity of their land. The RCIADIC recommended that land needs of Aboriginal and Torres Strait Islander communities be incorporated into legislation.

The RCIADIC also recommended that the Commonwealth Government make a declaration under Article 22 of the *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment* and take all steps necessary to become a party to the *Optional Protocol to the International Convention on Civil and Political Rights* to provide a right of individual petition to the Committee Against Torture and the Human Rights Committee. States and Territories have a specific responsibility to ensure that legislation regarding correctional services conform to Standard Guidelines for Corrections in Australia, and uphold humane conditions as required under international obligations.

The average implementation status for each jurisdiction in relation to Reconciliation, land needs and international obligations (recommendations 328-339) is shown in Chart xii.

Chart xii Average implementation status – Reconciliation, land needs and international obligations



Note: The dashed line represents the average proportion of completed recommendations.

In response, governments have taken the following actions:

- The **Commonwealth** has taken the following actions: introduced the *Native Title Act 1993* which established a national scheme to provide for the recognition and protection of native title; and about 40% of Australia has now been returned to, or recognised as, Aboriginal and Torres Strait Islander interests under native title and various state and territory based statutory Aboriginal and Torres Strait Islander land schemes.

- In 1993, the Australasian Police Ministers' Council endorsed standard guidelines for police custodial facilities. Australia has also adhered to international obligations, including the First Optional Protocol to the International Covenant on Civil and Political Rights. In 1993, Australia lodged declarations with the United Nations under Article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- **New South Wales** upholds humane prison conditions through a standardised Performance Framework and active systems for monitoring compliance. The Aboriginal Land Rights Act 1983 was introduced to address Aboriginal and Torres Strait Islander land needs.
- The **Victorian** Government has decommissioned a number of older prisons, and updated facilities. In addition, protections for Aboriginal and Torres Strait Islander heritage and cultural sites are enshrined in the Mineral Resources Development Act 1990.
- The **Queensland** Government has complied with the Standard Guidelines for Corrections in Australia by establishing a program for the rebuilding of correctional facilities, including capital works. Provisions for the addressing of land related needs have been included in the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991*.
- **South Australia** has installed an Aboriginal and Torres Strait Islander person on the Parole Board and improved representation on the Prisoner Assessment Committee. The Native Title (South Australia) Act 1994 has also been enacted to bring State laws in line with Commonwealth native title legislation.
- **Western Australia** has implemented all recommendations related to international obligations, including adopting standard Guidelines for corrections. Western Australia has also made significant progress on addressing land needs through implemented native title legislation.
- **Tasmania** has incorporated the Standard Guidelines for Corrections in Australia into the practices of Corrective Services, and is currently participating a further review to ensure comprehensive compliance. The *Aboriginal Lands Act 1995* (Tas) was introduced to address the absence of native title in Tasmania, and the Aboriginal Land Council of Tasmania is the democratically elected body that manages land returned under the Act.
- The **Northern Territory** Government has ensured that prison practices are compliant with the Standard Guidelines and has been actively involved in their most recent review. In addition, the Northern Territory has taken actions to control entry to Aboriginal and Torres Strait Islander land through the issue of permits, and approval processes.
- The **Australian Capital Territory** Government has incorporated the principles of the Standard Guidelines into ACT Corrective Services policy development and planning, and has also cooperated with the Commonwealth's National Standards Body in the development of the Standard Guidelines.

The RCIADIC also called for reconciliation to address community division and the injustices that Aboriginal and Torres Strait Islanders have faced. Immediately following the RCIADIC, the *Council for Aboriginal Reconciliation* was established. It has since been superseded by a non-government, not-for-profit foundation known as *Reconciliation Australia*. In 2008, Prime Minister Kevin Rudd delivered an Apology to the Stolen Generations to the Australian Parliament in recognition of the harmful policies of past governments. Work is continuing on a referendum on constitutional recognition.

To fully address all of the recommendations relating to land rights, further work is required to provide freehold title over public land, the prioritisation of Aboriginal and Torres Strait Islander buyers for the purchase of pastoral land, to which they may have an historical association and the development of an accelerated process for the granting of land title based on need.

Conclusion

The Commonwealth, State and Territory governments have taken many significant steps to respond to the RCIADIC recommendations, in order to improve outcomes for Aboriginal and Torres Strait Islander people and to advance the objectives of reconciliation. However, in terms of incarceration rates, there remains a substantial gap between the outcomes for Aboriginal and Torres Strait Islander people compared to other Australians.