



Inquiry into the ACT's Public Sector (Closing the Gap) Legislation Amendment Bill 2025

Productivity Commission submission

The Productivity Commission has a monitoring role for the National Agreement on Closing the Gap

The Productivity Commission welcomes the opportunity to make a submission to the ACT Standing Committee on Public Accounts and Administration.

The PC plays a critical monitoring and accountability role under the National Agreement on Closing the Gap (the Agreement). This responsibility includes conducting a comprehensive review of progress every three years (clause 121). These reviews provide an assessment of progress against the priority reforms, targets, indicators, and trajectories, while also examining the underlying factors that influence progress, drawing on evaluations and other evidence (clause 121). The findings not only track how well governments and partners are delivering on commitments but also guide the ongoing implementation of the Agreement by identifying areas for improvement and highlighting where more targeted efforts are required (clause 123).

The ACT's Public Sector Amendment Bill gives effect to two essential actions recommended in the PC's first review of the Agreement

The PC released its first review of the Agreement (the Review) last year (PC 2024). The Review found that governments have largely not fulfilled their commitments under the Agreement and failed to fully grasp the nature and scale of change required. It recommended 16 essential actions to strengthen accountability and drive behaviour change. These include:

- Action 4.3 – Include a statement on Closing the Gap in government organisations' annual reports
- Action 3.5 – Embed responsibility for improving cultural capability and relationships with Aboriginal and Torres Strait Islander people into public sector employment requirements.

The PC supports the intent of the *Public Sector (Closing the Gap) Legislation Amendment Bill 2025* (the Amendment Bill) to give effect to these essential actions. We encourage other jurisdictions to adopt a similar approach, ensuring that new requirements are clearly articulated, consistency upheld, and systemically embedded into the culture and practices of organisations.

Reporting on the implementation of the Agreement

The Australian, state and territory governments each have legislation or rules that require government organisations to prepare annual reports containing certain specified information. But there are currently no legislation or rules that create reporting obligations in relation to Closing the Gap.

The Review recommended all governments amend their relevant legislation or rules to include a requirement for every government organisation to include a statement on Closing the Gap in its annual report. At minimum, this should include reporting on:

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

The ACT's proposed new section to 7E of the *Annual Reports (Government Agencies) Act 2004* will provide transparency about the substantive activities government organisations in the Australian Capital Territory are undertaking to implement the Agreement. This section should complement, not replace comprehensive and considered reporting through Closing the Gap annual reports and implementation plans.

We commend Independent MLA Thomas Emerson's work to develop the Amendment Bill through consultation with local Aboriginal leaders and peak bodies and note the ACT Aboriginal and Torres Strait Islander Elected Body's support.

The ACT's proposed Closing the Gap principle

The ACT's proposal to embed explicit responsibilities for Closing the Gap within public sector employment requirements is welcome and will play a positive role in driving the cultural change needed across the public sector. All public servants must understand and apply the principles of the Agreement. These principles reflect the essential skills and behaviours needed for governments to meet their Closing the Gap commitments.

In early 2023, the Queensland Government implemented legislation which requires public sector CEOs, executives and employees to enhance their cultural capability and support the state government in reframing its relationship with Aboriginal and Torres Strait Islander people.

Following the Queensland model, the PC recommended all governments ensure that employment requirements of public servants demonstrate how they have sought to:

- improve their cultural capability
- understand Aboriginal and Torres Strait Islander history and context
- eliminate institutional racism
- develop relationships with Aboriginal and Torres Strait Islander people
- support the principles outlined in the National Agreement on Closing the Gap.

The PC further recommended that these requirements flow through into the performance agreements and KPIs of CEOs, executives and employees, with the strongest requirements placed on CEOs and executives.

The proposed amendments to section 8 of the ACT's *Public Sector Management Act 1994* will build greater understanding of the Agreement and strengthen efforts to put it into practice. They mark an important step towards creating a public service that is culturally safe and better equipped to meet the needs of Aboriginal and Torres Strait Islander people living in the ACT.

References

PC (Productivity Commission) 2024, *Review of the National Agreement on Closing the Gap*, Study report, Canberra.
 Joint Council 2020, *National Agreement on Closing the Gap*, Canberra.