

Productivity Commission *Indigenous Evaluation* *Strategy (draft)*

Submission

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Background

The Queensland Family and Child Commission (QFCC) is grateful for the opportunity to provide feedback to the Productivity Commission's draft *Indigenous Evaluation Strategy*¹ (the Strategy).

The QFCC has evaluation functions for the purposes of promoting the safety, wellbeing and best interests of children and young people and improving the child protection system in Queensland. We do this through an emphasis on progressing outcomes for Aboriginal and Torres Strait Islander children and young people, their families and communities.

The QFCC supports a national principles-based framework for Australian Government agencies to use when selecting, planning, conducting and applying evaluations of policies and programs affecting Aboriginal and Torres Strait Islander people. The QFCC wants to add to the national conversation about evaluating policies and programs that affect Aboriginal and Torres Strait Islander people, especially children and young people and their families.

The QFCC commends the Productivity Commission's efforts to develop the Strategy in a user-friendly way, including resources to support its use. This will allow all government agencies, non-government and community organisations, businesses and not-for-profit groups to follow agreed evaluation principles and processes, bolstering the body of evidence available and making sure policies and programs are properly designed and implemented.

The QFCC also commends the Productivity Commission for the extensive consultation to date, and for seeking feedback into the draft of the Strategy. This submission provides general comments about the draft Strategy and opportunities to strengthen the national approach.

¹ Productivity Commission May 2020, *Indigenous Evaluation Strategy - Draft* accessed 30 June 2020
<https://www.pc.gov.au/inquiries/current/indigenous-evaluation#draft>

The Declaration on the Rights of Indigenous Peoples and the right to self-determination

- The concept of 'centring' could be confused with 'engaging' and 'consulting'. It does not clearly convey the intent that evaluators must apply active efforts to invite Aboriginal and Torres Strait Islander people to walk in partnership and true participation throughout the evaluation process.
- Strengthening the language used throughout the Strategy would better reflect the highest intent of the maturity model mentioned within the Strategy.

The QFCC considers a rights-based approach to policy and program design, delivery and evaluation is fundamental to achieving the level of systemic change required to bring about improved outcomes for Aboriginal and Torres Strait Islander peoples. Importantly, ensuring that the outcomes sought are informed by the rights, needs and aspirations of First Australians.

Queensland is the third Australian jurisdiction (after the Australian Capital Territory and Victoria) to enact broad protections of human rights through the *Human Rights Act 2019* (HRA).² The HRA consolidates protection for human rights recognised under international law for all people in Queensland, providing more complete protection for individuals.

The purpose of the HRA is to foster a culture in which human rights are central to decision-making. The HRA imposes two obligations on public entities in relation to taking actions, making decisions and developing policy – to make sure:

1. their actions and decisions are compatible with human rights
2. proper consideration is given to human rights in the course of taking the action or making the decision.

In the context of the Indigenous Evaluation Strategy, the United Nations *Declaration on the Rights of Indigenous Peoples*³ must be given priority. Article 3 of the *Declaration on the Rights of Indigenous Peoples* states Indigenous peoples have the right of self-determination.⁴ It is widely acknowledged Aboriginal and Torres Strait Islander peoples are best placed to lead and implement system change and are essential to achieving outcomes in their best interests.⁵

The QFCC is concerned by the absence of any direct reference to the rights of Aboriginal and Torres Strait Islander peoples and their self-determination in the Strategy. The Strategy instead uses terminology such as 'centring' and 'engaging' Aboriginal and Torres Strait Islander peoples, without explicitly stating how this is embedded in the Strategy, or how the Strategy can ensure active efforts to embed these concepts in future policy and programs.

Strengthening the language used throughout the Strategy would better reflect the highest intent of the maturity model mentioned on page 20.⁶ The current language builds an overall impression that the Strategy is 'done to' rather than 'by' Aboriginal and Torres Strait Islander peoples for Aboriginal and Torres Strait Islander peoples.

Further, the current principles within the Strategy appear non-committal on the subject of improving Aboriginal and Torres Strait Islander outcomes. The principles are common to evaluation frameworks within Australia and


² *Human Rights Act 2004* (ACT); *Charter of Human Rights and Responsibilities Act 2006* (Vic) and *Human Rights Act 2019* (QLD)

³ United Nations General Assembly 2007, *Declaration on the Rights of Indigenous Peoples*, accessed 30 June 2020 <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

⁴ United Nations General Assembly 2007, *Declaration on the Rights of Indigenous Peoples* Article 3, accessed 30 June 2020 <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

⁵ Family Matters 2019, *The Family Matters Report 2019* p.24, accessed 30 June 2020 <https://www.familymatters.org.au/the-family-matters-report-2019/>

⁶ Productivity Commission May 2020, *Indigenous Evaluation Strategy – Draft* p.20, accessed 30 June 2020 <https://www.pc.gov.au/inquiries/current/indigenous-evaluation#draft>



internationally, as stated in the Strategy, however fall short of actively enhancing Indigenous outcomes. All levels of government must be held accountable to adopting self-determination and support partnerships between government and Aboriginal and Torres Strait Islander communities to undertake such endeavour.

In enacting the HRA, the Parliament of Queensland recognises *of particular significance to Aboriginal peoples and Torres Strait Islander peoples of Queensland is the right to self-determination*.⁷ Queensland's *Our Way* strategy represents a long-term commitment by Queensland Government and the Aboriginal and Torres Strait Islander community to work together.⁸ One of the four key areas of the *Our Way* strategy is focused on enabling self-determination in Aboriginal and Torres Strait Islander communities.

The QFCC supports approaches to evaluation that work alongside communities on programs that have been developed in partnership. We consider the Aboriginal and Torres Strait Islander Child Placement Principle a benchmark for how to work in the best interest of and with Aboriginal and Torres Strait Islander people to achieve outcomes that matter. Recognising that the Aboriginal and Torres Strait Islander Child Placement Principle exists currently as a legislative, policy and practice framework within a child protection context, the core elements maintain a striking validity and applicability for the design, delivery and evaluation of broader social services.

The five core elements of the Principle (prevention, participation, partnership, placement and connection) recognise the rights of Aboriginal and Torres Strait Islander children, family members and communities to have a say in decisions that affect their lives. The utility of the five elements is not limited to the statutory child protection context and can be transposed to suit any policy or program agenda where self-determination of First Nations people is given priority.

Indigenous people leading Indigenous policy and programs

- Through this Strategy the Productivity Commission has an opportunity to lead by example and increase the number of Aboriginal and Torres Strait Islander people with experience in evaluation and research, to fully realise the right of Indigenous peoples to 'administer programs through their own institutions'.⁹

Article 23 of the United Nations *Declaration on the Rights of Indigenous Peoples* states Indigenous peoples have the right 'to determine and develop priorities and strategies for exercising their right to development. In particular, (I)ndigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions'.¹⁰

For a program of evaluation of Indigenous programs and policy to be successful it needs to be led by Aboriginal and Torres Strait Islander peoples. The QFCC recognises the Productivity Commission's recognition of building capability 'among Aboriginal and Torres Strait Islander evaluators, organisations and communities' through its inclusion in table one on page 11 of the Strategy.¹¹


⁷ Human Rights Act (Queensland) 2019, preamble, accessed 03 July 2020 <https://www.legislation.qld.gov.au/view/pdf/asmade/act-2019-005>

⁸ The State of Queensland (Department of Child Safety, Youth and Women) 2017, *Our way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017-2037* accessed 15 July 2020 <https://www.communities.qld.gov.au/resources/campaign/supporting-families/our-way.pdf>

⁹ United Nations General Assembly 2007, *Declaration on the Rights of Indigenous Peoples* Article 23, accessed 30 June 2020 <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

¹⁰ United Nations General Assembly 2007, *Declaration on the Rights of Indigenous Peoples* Article 23, accessed 30 June 2020 <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html>

¹¹ Productivity Commission May 2020, *Indigenous Evaluation Strategy – Draft* p. 11, accessed 30 June 2020 <https://www.pc.gov.au/inquiries/current/indigenous-evaluation#draft>



The QFCC believes the proposed Office of Indigenous Policy Evaluation (OIPE) described on page 21 of the Strategy¹² should be led and staffed - as well as governed - by a majority of Aboriginal and Torres Strait Islander people. This will ensure Aboriginal and Torres Strait Islander people fully participate in evaluation, rather than be 'engaged with' as suggested in the Strategy.

The OIPE should be given responsibilities to support and upskill community-controlled organisations to undertake evaluation that aligns with government requirements, but further, and importantly, enables monitoring and evaluation of outcomes that are oriented towards the identified needs, priorities and expectations of the particular community they serve.

Further, there are a growing number of established Aboriginal and Torres Strait Islander researchers and institutes that are well placed and sufficiently independent of Government to undertake a larger role in evaluation. The OIPE should facilitate partnerships and establish a collective approach with credible organisations to administer evaluation programs through Aboriginal and Torres Strait Islander led institutions.

This approach recognises and respects the concept of dual accountabilities for community-controlled organisations and the primacy of obligations to their local community, measuring what matters to those most impacted. This will help to increase the capacity of community-controlled organisations, strengthen structures to ensure full involvement of Aboriginal and Torres Strait Islander people in decision making and ensure continued evidence-informed improvement in the work they do.

Mainstream policy is Indigenous policy

- Evaluation of policy and program should not be limited to Indigenous specific policy and programs at any point in time.

Aboriginal and Torres Strait Islander peoples are affected by mainstream policies and programs as much as any other person in Australia. Adverse impacts of whole of population policy and programs that do not understand and respond to the rights, needs and circumstances of First Nations People are demonstrated in the disproportionate rates of involvement in statutory systems and in the disparity that persists across a range of social determinants far beyond the scope of the Closing the Gap target areas.

While there is a compelling case for change in the design, delivery and evaluation of targeted supports and services, the impact of all government policies and programs should be subject to evaluation and scrutinised for impacts on outcomes for Aboriginal and Torres Strait Islander peoples.


The voices of children

- Aboriginal and Torres Strait Islander children and young people need to be included in planning about decisions being made about them.

Article 12 of the United Nations *Convention on the Rights of the Child* says children and young people have a right to have a say on all issues that affect them and for their views to be taken seriously.¹³ The QFCC advocates for the voices of children and young people to be heard throughout the processes of decision-making about them.

¹² Productivity Commission May 2020, *Indigenous Evaluation Strategy – Draft* p. 21, accessed 30 June 2020
<https://www.pc.gov.au/inquiries/current/indigenous-evaluation#draft>

¹³ United Nations General Assembly 1989, *Convention on the Rights of the Child* Article 12, accessed 30 June 2020
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>



Children and young people in Queensland continue to tell the QFCC they want to be informed and contribute as citizens.¹⁴

The *Indigenous Evaluation Strategy - Draft Background Paper*¹⁵ does not reflect consultation with children and young people. The finalisation of the Strategy needs to prioritise and promote child-focused and child-friendly consultation processes. By making sure there are avenues for Aboriginal and Torres Strait Islander children and young people to participate, we not only strengthen democratic institutions, we also recognise their experiences and validate them as equal citizens. Ensuring that processes are inclusive of the voices and perspectives of those whose future we hope to shape is fundamental.

Opportunities for young people

- It is important that strategies contribute to the development of a cohort of Aboriginal and Torres Strait Islander evaluators within the Australian Public Service.

The QFCC 2018 Growing Up in Queensland survey found that young people were keen to learn skills to prepare them for the future workforce.¹⁶ One important skill is the ability to evaluate the work undertaken within the government sector.

The QFCC would strongly support the inclusion of strategies to embed culturally safe evaluation training at post-secondary institutions and for the OIPE to offer an entry-level employment and development program for Aboriginal and Torres Strait Islander students. This would contribute to improving employment opportunities, experiences and outcomes for Indigenous Australians and could contribute to the development of a cohort of Aboriginal and Torres Strait Islander evaluators within the Australian Public Service. The *Indigenous Australian Government Development Program* is one such example of this type of program.¹⁷

Priority policy areas

- The QFCC advocates that priority is given to policies involving children and young people to help guide agencies' decisions about what to evaluate.

The QFCC acknowledges the proposed interim government-wide evaluation priority areas align to the strategic platforms which support the former targets for Closing the Gap.¹⁸ In July 2020, the National Agreement on Closing the Gap was released. The Strategy should consider how it can best align with the revised Closing the Gap priority reform and socio-economic targets and outcomes.¹⁹

¹⁴ The State of Queensland (Queensland Family and Child Commission) 2018, *This place I call home: the view of children and young people on Growing up in Queensland* cited 30 June 2020 https://www.qfcc.qld.gov.au/sites/default/files/2020-02/This-place-I-call-home-report_FULL_0.pdf


¹⁵ Productivity Commission May 2020, *Indigenous Evaluation Strategy – Draft Background Paper*, accessed 02 July 2020 <https://www.pc.gov.au/inquiries/current/indigenous-evaluation/draft/indigenous-evaluation-draft-background.pdf>

¹⁶ The State of Queensland (Queensland Family and Child Commission) 2018, *This place I call home: the view of children and young people on Growing up in Queensland* p.59 accessed 30 June 2020 https://www.qfcc.qld.gov.au/sites/default/files/2020-02/This-place-I-call-home-report_FULL_0.pdf

¹⁷ Australian government (Department of Education, Skills and Employment) *Indigenous Australian Government Development Program (IAGDP)* [webpage] accessed 28 July 2020 <https://www.employment.gov.au/indigenous-australian-government-development-program-iagdp>

¹⁸ Australian Government, National Indigenous Australians Agency, *Closing the Gap: Draft Targets*, accessed 21 July 2020 <https://closingthegap.niaa.gov.au/draft-targets-for-discussion>

¹⁹ National Agreement on Closing the Gap July 2020, accessed 31 July 2020 <https://www.closingthegap.gov.au/sites/default/files/files/national-agreement-ctg.pdf?q=0720>



Listing priority areas from one to seven conveys an order of significance for each area. Considering this and recognising the importance of child development, safety and wellbeing the QFCC supports the Strategy's placement of *families, children and youth* as the highest priority policy area.²⁰

The QFCC recommends the proposed priority area for youth justice (currently included in priority six: *Justice, including youth justice*) is given equal priority alongside other policies for children and young people.

The youth justice system is known to have significant detrimental impacts on the lives of Aboriginal and Torres Strait Islander children. While the vast majority of Aboriginal and Torres Strait Islander children never come into contact with the youth justice system, Aboriginal and Torres Strait Islander children are known to be overrepresented in the youth justice system in all states and territories.

Across Australia in 2018 - 2019, Aboriginal and Torres Strait Islander children under supervision were two and a half times as likely to first have had contact with the youth justice system when aged 10-13 years than their non-Indigenous counterparts (38 per cent, compared with 15 per cent).²¹ The age at which children enter the youth justice system directly influences their likelihood of reoffending, and probability of becoming an adult offender.²²

Additionally, Aboriginal and Torres Strait Islander children were 17 times more likely to be known to both the child protection and youth justice systems in 2013-2017, than their non-Indigenous counterparts.²³ There is a well-established nexus²⁴ between children in child protection and over representation in youth justice. The issue of criminalisation of children living in out-of-home care and their overrepresentation in the criminal justice system is an area requiring greater focus and improved policy and program response.

In Queensland, Aboriginal and Torres Strait Islander children are more likely to be charged with an offence, more likely to have a matter referred to court, less likely to be under community supervision, more likely to be remanded in custody and more likely to be subjected to detention than their non-Indigenous counterparts.²⁵ These realities are widely reported to be mirrored in other states and territories.

Aboriginal and Torres Strait Islander children who are in contact or at risk of contact with the youth justice system would significantly benefit from evaluation of youth justice policy, and programs such as prevention and early intervention programs, programs to reduce re-offending, and education and rehabilitation programs for during and after any period of detention.

Evidence-informed, culturally safe and community supported youth justice programs will help to reduce the number of Aboriginal and Torres Strait Islander children entering the youth justice system and improve their life outcomes, thus, meeting the objective of the Strategy.²⁶

'Flexibility' defined

- The Strategy needs to be more explicit in acknowledging diversity.

²⁰ Productivity Commission May 2020, *Indigenous Evaluation Strategy – Draft* p.22, accessed 30 June 2020

<https://www.pc.gov.au/inquiries/current/indigenous-evaluation#draft>

²¹ Australian Institute of Health and Welfare 2020, *Youth justice in Australia 2018–19* p 28, accessed 15 July 2020

<https://www.aihw.gov.au/getmedia/a5a364b9-fe69-4d02-9c93-1965a69a3d93/aihw-juv-132.pdf.aspx?inline=true>

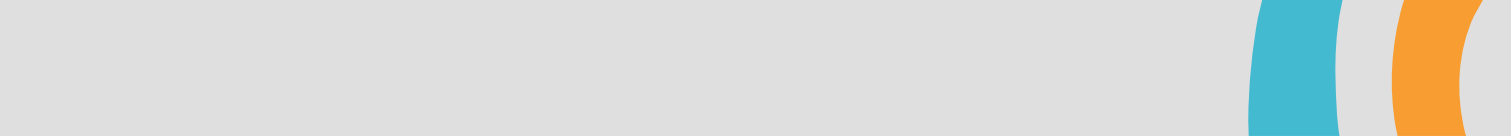
²² The State of Queensland (Queensland Family and Child Commission) 2018, *The age of criminal responsibility in Queensland* p.30 accessed 27 July 2020 <https://www.qfcc.qld.gov.au/sites/default/files/For%20professionals/policy/minimum-age-criminal-responsibility.pdf>

²³ Australian Institute of Health and Welfare 2016, *Young people in child protection and under youth justice supervision 1 July 2013 to 30 June 2017* accessed 27 July 2020 <https://www.aihw.gov.au/getmedia/bdcab5ea-2009-4c44-95ff-8225f5171c4a/aihw-csi-26.pdf.aspx?inline=true>

²⁴ The State of Queensland (Queensland Family and Child Commission) 2018, *The criminalisation of children living in out-of-home care in Queensland* accessed 27 July 2020, <https://www.qfcc.qld.gov.au/kids/young-people-living-care>

²⁵ Various cited in State of Queensland (Department of Child Safety, Youth and Women) 2018, *Report on Youth Justice version 2*, pp. 107-110 accessed 02 July 2020 <https://www.youthjustice.qld.gov.au/resources/youthjustice/reform/youth-justice-report.pdf>

²⁶ Productivity Commission May 2020, *Indigenous Evaluation Strategy – Draft* p.6 accessed 30 June 2020 <https://www.pc.gov.au/inquiries/current/indigenous-evaluation#draft>



The guiding principle of the Strategy notes evaluations need to be flexible to be ‘tailored to the particular circumstances of policies, programs and communities’.²⁷ The QFCC suggests the Strategy be more explicit in acknowledging the diversity between Aboriginal and Torres Strait Islander cultures and the communities within each of these cultures, the impacts of intergenerational trauma from past government policies, as well as additional considerations for evaluations of programs dealing with sensitive issues.

For example, the QFCC 2020 survey of workers in the frontline child protection and family support sector identified shame, personal relationships with service providers and concerns about confidentiality as barriers to Aboriginal and Torres Strait Islander families accessing support services. The QFCC notes these barriers are also likely to affect participation in evaluation and the willingness of participants to share their experiences and opinions openly.

²⁷ Productivity Commission May 2020, *Indigenous Evaluation Strategy - Draft* p.10 accessed 30 June 2020
<https://www.pc.gov.au/inquiries/current/indigenous-evaluation#draft>