

Attachment A – Detailed Commonwealth response to the Royal Commission into the Protection of Children and Detention of Children in the Northern Territory

Commonwealth Recommendations		
No.	Recommendation	Initial response and comment
1.2	Amend the <i>Royal Commissions Act 1902 (Cth)</i> to allow Counsel Assisting to require persons to appear before him/her for examination on oath and to answer questions.	<p>Not supported</p> <p>Royal Commissions are Australia’s highest form of public inquiry, and this is reflected in the considerable powers given to Royal Commissioners, who already have the power to require persons to appear before him/ her for examination on oath and to answer questions.</p>
1.3	Amend the <i>Royal Commissions Act 1902 (Cth)</i> to grant records relating to vulnerable witnesses (as defined in the Policy and Procedure for Vulnerable Witnesses) in this Royal Commission the same protections as contained in section 60M of the Royal Commissions Act which relate to information obtained or relating to a ‘private session’.	<p>Support in Principle, subject to further consultation</p> <p>Further consideration of implementation details is required.</p> <p>Section 60M of the <i>Royal Commissions Act 1902 (Cth)</i> provides that a record relating to a private session held by the Royal Commission into Institutional Responses to Child Sexual Abuse will be subject to open access 99 calendar years after the record came into existence.</p> <p>The views of the Northern Territory Government and the National Archives of Australia need to be sought. Consideration would also need to be given to handling evidence from vulnerable witnesses that is already in the public domain.</p>
1.4	Amend the <i>Freedom of Information Act 1982 (Cth)</i> to exempt from its application records relating to vulnerable witnesses (as defined in the Policy and Procedure for Vulnerable Witnesses) in this Royal Commission.	<p>Support in-principle</p> <p>The Royal Commission has made a non-publication order for records relating to vulnerable witness. This means that these records are exempt documents under section 46(c) of the <i>Freedom of Information Act 1982 (FOI Act)</i> for 20 years, the closed access period.</p> <p>The Commonwealth will give further consideration to whether there is a need to amend the FOI Act, in light of the effectiveness of existing measures available under the FOI Act.</p>

<p>6.1 The Productivity Commission undertake a review and audit of Commonwealth expenditure in the Northern Territory in the area of family and children’s services relevant to the prevention of harm to children. The review should address co-ordination of programs, funding agreements and selection of service providers, service outputs and evaluations.</p>	<p>Support in-principle, subject to further consultation A review of Commonwealth and Northern Territory government expenditure is supported. Further consideration of implementation details are required.</p>
<p>15.4 The Commonwealth Minister for Health: a. make the necessary directions under section 19(2) of the <i>Health Insurance Act 1973 (Cth)</i> to enable the payment of Medicare benefits for medical services provided to children and young people in detention in the Northern Territory b. take all necessary steps to ensure that supply of pharmaceuticals to children and young people in detention in the Northern Territory is provided under the Pharmaceutical Benefits Scheme, and c. direct that if an initial questionnaire for Fetal Alcohol Spectrum Disorder indicates that a full assessment is required, that assessment be funded through Medicare or the NDIS as appropriate.</p>	<p>Not supported The Commonwealth Government does not support this recommendation as Commonwealth funding is already provided to state and territories for services provided within prisons. Prisoner health care remains the responsibility of state and territory governments under corrective services legislation. States and territories are responsible for public controlled health services including services provided within prisons. Subsection 19(2) of the <i>Health Insurance Act 1973</i> disallows the payment of Medicare benefits for services rendered by, or on behalf of a state or territory government authority. This prevents a service from being funded twice from public resources or prohibits state and territory governments from transferring costs associated with their programs to the Commonwealth.</p>
<p>32.11 Child protection income management no longer be required to access the Intensive Family Support Service.</p>	<p>Support in-principle, subject to further consultation Referral pathways to the Intensive Family Support Service program have already been adjusted to provide access for a range of vulnerable families. The Commonwealth will consult with families and communities if further action is required.</p>
<p>41.3 The Commonwealth Government commission the Australian Institute of Health and Welfare to: a) develop a nationally agreed definition or definitions for the collection of youth recidivism statistics b) collect and publish statistics on youth recidivism from around Australia, and c) provide technical support to states and territories to assist their collection of data under the agreed definition.</p>	<p>Support in-principle This recommendation is consistent with the policy agenda under the Closing the Gap Refresh and other initiatives, however implementation would require collaboration with state and territory representatives of the Australasian Juvenile Justice Administrators.</p>

Commonwealth and NTG Interest

Theme	Recommendations	Position
<p>Place-based implementation</p>	<p>1.1. The Northern Territory and Commonwealth Governments establish a program of community engagement to visit communities and communicate the outcomes and recommendations of this report.</p> <p>7.1 The Northern Territory Government and the Commonwealth Government commit to a ‘place-based’ approach for the implementation of the recommendations of this report in partnership with local communities. The partnership should be built on the principles of mutual respect, shared commitment, shared responsibility and good faith. The location of the ‘place’ could be a single community, a group of communities or a region.</p> <p>7.2 The purpose of the partnership should be to reach agreement on the strategies, policies and programs needed to provide sustained positive outcomes for children and young people at each ‘place’.</p> <p>7.3 The Northern Territory and Commonwealth Government immediately engage with Aboriginal community representatives to negotiate the broad terms for the partnership and its implementation across the Northern Territory built on the following principles:</p> <ul style="list-style-type: none"> • the best interest of the child • local solutions for local problems • local decision-making • the centrality of family and community to the wellbeing of children and young people • the Northern Territory Government has the ultimate responsibility to ensure the safety and security of all Northern Territory children and young people, and • shared responsibility and accountability. 	<p>Support in-principle Further consideration of implementation details is required, including clarifying the role of the Commonwealth and NT Governments.</p>

Data and Evaluation	<p>41.1 The Northern Territory Government develop a plan, in consultation with the Australian Institute of Health and Welfare, to work progressively towards complying with the Juvenile Justice National Minimum Data Set requirements within a reasonable time but not more than two years from the date of this report.</p>	<p>Support Aligns with current policy and work plan.</p>
	<p>25.5</p> <ol style="list-style-type: none"> 1. The Northern Territory collect and report data on Aboriginal deaths in custody to the Australian Institute of Criminology (AIC). 2. The Australian Institute of Criminology to publish all data made available on Aboriginal deaths in custody on an annual basis. <p>33.25 The Northern Territory Government continue working with the Australian Institute of Health and Welfare to develop a dataset to report on outcomes for children transitioning from out of home care up to age 25. Indicators should include:</p> <ul style="list-style-type: none"> • connection to family and/or carers • education and employment • housing, and • health, including mental health. <p>43.1 Specific evaluation plans be established as a mandatory component of policy and program development, and as a means of assessing effective implementation of the Commission’s recommendations.</p> <p>43.2 Outcomes from evaluation be used to establish a local evidence base to support the existence and funding of policies and programs.</p>	<p>Support in-principle, subject to further consultation Further consideration of implementation details is required for each of these recommendations. Some data collection and analysis would require agreement of all states and territories, and would need to be aligned with existing projects.</p>
	<p>33.4 To ensure timely and quality care plans are developed and implemented for each child in out of home care:</p> <ul style="list-style-type: none"> • the <i>Care and Protection of Children Act (NT)</i> be amended to the effect that: an application to the court for a ‘protection order’, as that term is defined in the Act, be accompanied by a care plan for the relevant child <ul style="list-style-type: none"> – if the application is not accompanied by a care plan, the court may set a date by which the care plan is to be filed with the court that is no longer than three weeks after filing the application for a protection order, and 	<p>Note The majority of the actions in this recommendation are the responsibility of the Northern Territory Government. Commonwealth involvement in this recommendation is through the receipt of information, noting that the Northern Territory</p>

	<ul style="list-style-type: none"> - any subsequent care plan developed and approved by the Chief Executive Officer of Territory Families during the course of the proceedings must be filed with the court within 14 days of its creation or review - section 130 of the <i>Care and Protection of Children Act (NT)</i> be amended to provide that a court may not issue a protection order unless satisfied that the Chief Executive Officer has developed, approved and filed with the court a care plan that meets the needs and best interests of the child • the Northern Territory Government collect care plan data in a form that will allow it to provide such data to the Productivity Commission for comparison with other states and territories • section 74(4) of the <i>Care and Protection of Children Act (NT)</i> be amended to provide that the Chief Executive Officer ‘must obtain, to the extent reasonably practicable, and have regard to the views expressed’ by the specified persons, and • section 70 of the <i>Care and Protection of Children Act (NT)</i> be amended to include a requirement that a cultural component of a care plan must be included in all care plans specifically tailored to the child. 	<p>provided the Productivity Commission with care plan data for inclusion in the recently-released 2018 Report on Government Services.</p>
<p>Early Intervention and Prevention</p>	<p>39.3 Establish a network of no fewer than 20 Family Support Centres, their location to be based on information gathered in the studies and specified in the Generational Strategy for Children and Families, to:</p> <ul style="list-style-type: none"> • provide services to and support families and children • help families understand the child protection system • act as Recognised Entities, and • act as an entry point in a dual pathway model. 	<p>Support in-principle, subject to further consultation</p> <p>Further consideration of implementation details is required.</p>
	<p>39.4 The engagement of operators of the Family Support Centres not be by tender, but by a panel made up from the Northern Territory and Commonwealth Governments, including representatives of the Aboriginal community. The minimum criteria for selection to provide a Family Support Centre include:</p> <ul style="list-style-type: none"> • experience in service delivery • in-depth knowledge and understanding of the Northern Territory Child protection system • extensive experience of working effectively with Aboriginal children, families and communities 	<p>Support in-principle</p> <p>Further consideration of implementation details is required. There is an opportunity to build on existing approaches to build capacity around cultural competency in service providers.</p>

	<ul style="list-style-type: none"> • the trust of the Aboriginal community as a culturally safe and competent service • the capability to be declared as a Recognised entity, and • the highest standards of corporate and administrative governance. 	
	39.6 The Commonwealth Government participate in the funding of the Family Support Centres.	Note
Oversight	<p>25.4</p> <p>1. A custody notification scheme be introduced requiring police to notify a lawyer from an appropriate legal service as soon as a child or young person is brought into custody.</p> <p>2. The Northern Territory Government commit to resource the custody notification scheme (CNS) following the initial three-year funding from the Commonwealth Government, including funding the legal services to provide the custody notification scheme.</p>	<p>Support</p> <p>Aligns with current policy.</p>
	40.4 The Commission for Children and Young People be provided with functions that are compatible with the requirements of a National Preventative Mechanism as set out in OPCAT.	<p>Support in-principle</p> <p>Establishing a Commission for Children and Young People is a matter for the Northern Territory Government.</p> <p>The Commonwealth can provide advice to ensure that such a Commission is OPCAT compliant.</p>
Coordination and Governance	<p>43.7 A tripartite forum be established with representatives from the Northern Territory Government, Commonwealth Government and community sector, to coordinate and oversee policy and programs for children and young people in the youth justice and child protection systems. In doing so, the tripartite forum is to:</p> <ul style="list-style-type: none"> • meet at least quarterly, and • deliver an annual report to the relevant Northern Territory and Commonwealth government ministers and boards of the member community organisations. 	<p>Support</p> <p>The Commonwealth supports this recommendation, noting work would need to be done with the Northern Territory Government and community sector to determine parameters for the group, such as membership and Terms of Reference.</p>

<p>39.2 Develop a 10-year Generational Strategy for Children and Families, to be led by the Chief Minister. This Strategy be based on the information gathered in the proposed studies and be overseen by the proposed Tripartite Forum and endorsed by the Children’s Sub-Committee of Cabinet.</p> <p>The Generational Strategy for Children and Families include a strategic framework to govern services for families and children based on local service delivery, covering service location, design, selection, development, delivery, funding and evaluation and:</p> <ul style="list-style-type: none"> • plans for the delivery through the Family Support Centres of core services available to all families and services targeting high risk cohorts and prevalent risk factors for involvement in the child protection system, and • targets, benchmarks and outcome measures. 	<p>Support in-principle Further consideration of implementation details is required. The Commonwealth is willing to consider membership on the Implementation Monitoring Committee (noting that the establishment is the responsibility of the Northern Territory Government).</p>
<p>43.3 The proposed Commission for Children and Young People:</p> <ul style="list-style-type: none"> • monitor and report on the Northern Territory Government’s implementation of the Commission’s recommendation for at least five years • prepare a report annually for tabling in Parliament, and • establish and chair an Implementation Monitoring Committee, with representatives from the Northern Territory and Commonwealth Governments, non-government and Aboriginal organisations, research bodies and other suitable persons, to assist in preparing the annual report on implementation. 	
<p>39.5 Establish a joint Commonwealth-Territory Co-ordinated Funding Framework, setting policies for an agreed approach to the planning, funding and delivery of services for families and children in the Northern Territory.</p>	<p>Support in-principle, subject to further consultation Further consideration of implementation details is required.</p>
<p>39.1 The Northern Territory Government:</p> <ul style="list-style-type: none"> • commit to a public health approach to child protection and the prevention of harm to children • establish consultation procedures with the sector, organisations and communities 	<p>Note These recommendations are either directed to the Northern Territory Government or would need to be referred to COAG for discussion and decision.</p>

- carry out prevalence, needs, service mapping and service referral studies (the studies) to gather information about the needs of children, families and subpopulations, and what services are currently available to meet those needs
- create and maintain a Services Register containing information about the services available in communities
- establish an early support research unit, which would implement a research agenda relating to risk factors, service needs and evaluated outcomes, and develop and implement an outcomes and evaluation framework.

43.4 COAG agree to extend the mandate of the Steering Committee for the Review of Government Service Provision to report on state and territory progress against further specific youth justice and child protection indicators, as agreed by COAG, as part of its regular Overcoming Indigenous Disadvantage report.