



NSW Ombudsman

Addressing Aboriginal
disadvantage: the need to
do things differently

A Special Report to Parliament
under s 31 of the *Ombudsman
Act 1974*

October 2011



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the need to do things differently

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Our logo has two visual graphic elements: the 'blurry square' and the 'magnifying glass' which represents our objectives. As we look at the facts with a magnifying glass, the blurry square becomes sharply defined, and a new colour of clarity is created.

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NSW Ombudsman

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The Hon Don Harwin MLC
President
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The Hon Shelley Hancock MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Mr President and Madam Speaker,

I submit a report pursuant to s 31 of the *Ombudsman Act 1974*. In accordance with the Act, I have provided the Minister for Aboriginal Affairs with a copy of this report.

I draw your attention to the provisions of s 31AA of the *Ombudsman Act 1974* in relation to the tabling of this report and request that you make it public forthwith.

Yours faithfully

Bruce Barbour
Ombudsman

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Ombudsman's message

It has been almost a decade since the Council of Australian Governments recognised the need for a new approach to the way governments work with Aboriginal communities. NSW is also eight years into *Two Ways Together*, the former NSW Government's 10 year plan for improving the lives of Aboriginal people in NSW.

Despite this, Aboriginal communities are still facing chronic problems including high levels of unemployment and disengagement from economic opportunities; substantial numbers of young people engaging in anti-social behaviour reflected in poor school engagement; large numbers of young people in custody; and inadequate protection of Aboriginal children who are at risk of abuse and neglect.

In this context, it is unsurprising that the *Strategic Review of Indigenous Expenditure* – a federal Department of Finance report – found that, despite the efforts of governments and the expenditure of significant public funds, progress towards addressing Aboriginal disadvantage 'has been mixed, at best'.

In this regard, it is pleasing that the NSW Minister for Aboriginal Affairs has recently announced the establishment of a Ministerial Taskforce to advise him on the development of Aboriginal policy, particularly in the areas of Aboriginal education and economic opportunity.

Community leaders have repeatedly told my office that they want 'the truth' to be told about the problems they continue to face and the reasons why. They are tired of seeing much needed resources poorly targeted because of a lack of coordinated planning around the funding, design and delivery of critical services by government agencies. Communities mostly attribute this failure to provide integrated and efficient services, to the absence of positions on the ground with the necessary 'clout' to drive decision-making and related service delivery.

In this environment, simply directing additional funds to more Aboriginal programs and services is not the solution. Rather, it is time for major reform in this state in relation to the overall approach to overall Aboriginal affairs. Aboriginal communities do not want yet another 'plan' on top of the many that already exist. Instead, they have stressed the need for a streamlined, overarching approach by government to address the disadvantage and dysfunction they see in their communities. And they are keen to see an end to the wasted opportunities stemming from large amounts of funds being spent on a disparate 'grab-bag' of programs without adequate accountability. In order to change direction, there is a need for government to work with Aboriginal leaders in developing a new 'roadmap' for building on the social and economic capital of Aboriginal communities in this state.

NSW has the largest Aboriginal population in Australia – comprising almost 30% of the national total – and it is growing rapidly. Over the next 10 years, our Aboriginal population is expected to increase by double the rate of growth for the population as a whole. Almost 40% of the Aboriginal population in NSW is under the age of 15. Tackling systemic disadvantage is critical to improving the lives of these children and future generations of Aboriginal people. It will also produce broader social and economic benefits for the whole community.



Bruce Barbour
Ombudsman

Chapter 1: About this report

This special report to Parliament is made under Part 6A of the *Community Services (Complaints, Reviews and Monitoring) Act 1993*, which requires the NSW Ombudsman to audit the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities 2006 – 2011* (Interagency Plan).

The broad goals of the Interagency Plan are to:

- reduce the incidence of child sexual abuse in Aboriginal communities
- reduce disadvantage and dysfunction in Aboriginal communities, and
- build up Aboriginal leadership and increase family and community safety and wellbeing.

These goals recognise that child sexual assault in Aboriginal communities cannot be tackled in isolation from addressing the broader issues of disadvantage, including poor health, education and employment outcomes, and the overrepresentation of Aboriginal children in the child protection and criminal justice systems.

This report seeks to bring together what we have said over a number of years publicly – as well as to agencies directly – about the systemic reforms that are needed to address Aboriginal disadvantage in NSW. It also builds on the findings and recommendations contained in our December 2010 report about service delivery to the Bourke and Brewarrina communities¹. The primary focus of that report was on the actions required to improve the delivery of services to these and other high need rural and remote communities.

In this report we highlight the importance of taking bold approaches to the priority areas of education, building economic capacity and protecting vulnerable children in Aboriginal communities. While there are clearly other important areas of service delivery – health and housing, for example – we have sought to limit the focus of this report to only a few critical issues.

Whereas our Bourke and Brewarrina report stopped short of recommending major structural changes to the governance of Aboriginal affairs in NSW, this report does just that. In particular, we recommend a framework for a consolidated, whole of government approach to addressing Aboriginal disadvantage, together with robust governance to drive the effective delivery of services ‘on the ground’. The report also emphasises the need for government to build meaningful partnerships with Aboriginal communities and, in doing so, to give practical recognition to Aboriginal people exercising responsibilities consistent with their right to self determination.

The views expressed in this report have been informed not only by our audit of the Interagency Plan, but also the significant work we have carried out over the past ten years.² This work has involved extensive consultation with thousands of Aboriginal people as well as many hundreds of agencies and organisations responsible for providing services. Our consultations have taken place in NSW as well as the Kimberley region of Western Australia and more recently, the four communities participating in the Cape York Welfare Reform Partnership and the community of Doomadgee in Queensland.

Our report also draws on the knowledge we have acquired from carrying out our specific legislative functions to review the delivery of community services and to our oversight of policing. A number of the issues highlighted in this report have also been considered in our recent report to Parliament, *Keep Them Safe?*³

Although we are not required to formally report on our audit of the Interagency Plan until December 2012, we recognise the importance of releasing our findings to date given the Government’s recent announcement to establish a Ministerial Taskforce on Aboriginal Affairs.

1 NSW Ombudsman, *Inquiry into Service Provision to the Bourke and Brewarrina Communities*, Special report to Parliament, December 2010.

2 This work has included auditing the implementation of the NSW Police Force’s *Aboriginal Strategic Direction* over four years; conducting a review of support provided to carers of Aboriginal children; and reviewing the implementation of ADHC’s *Aboriginal Policy Framework and Aboriginal Consultation Strategy*.

3 NSW Ombudsman, *Keep Them Safe?* Special report to Parliament, August 2011.

Chapter 2 Why major reform is needed

*'Past approaches to remedying Indigenous disadvantage have clearly failed, and new approaches are needed for the future.'*⁴

As the Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda recently pointed out, while it is wrong to conclude that there have not been any improvements over the past four decades, Aboriginal people continue to experience considerable disadvantage relative to the non-Aboriginal population.⁵ This fact has been recognised by all Australian governments through the National Indigenous Reform Agreement (*'Closing the Gap'*), which identifies six targets for achieving improvements in relation to health, education and employment.

Despite modest improvements in some areas, Aboriginal people in NSW continue to experience poorer outcomes than non-Aboriginal people across almost every economic, health and environmental measure. The causes of this disadvantage are inextricably linked and complex. As recognised by *Closing the Gap*, a long term commitment to change is required. However, at the same time, immediate action is needed in a number of priority areas, including child protection, education and employment.

From our extensive work with Aboriginal communities, we know that too many Aboriginal children and young people in NSW are missing out on the opportunity to lead healthy and productive lives. For example, we are currently reviewing the circumstances of a substantial number of Aboriginal children and young people who are failing to regularly attend school, engaging in anti-social behaviour that brings them repeatedly to the attention of the criminal justice system, and being chronically subjected to abuse and neglect.

The available figures for NSW are alarming. The Aboriginal unemployment rate is approximately three times greater than for the rest of the population.⁶ Despite Aboriginal young people comprising just 4% of the general adolescent community in NSW,⁷ half of all juveniles sentenced to a period of detention are Aboriginal – in Western NSW, the proportion rises to over 80%.⁸ Aboriginal children and young people are also over-represented in the child protection system – they are the subject of over 20% of all child protection reports and represent one third of the 17,000 plus children in out-of-home care.⁹ Over one quarter of the child deaths that we review in accordance with our statutory function to do so, involve Aboriginal children.¹⁰ The reported state-wide attendance rate for Aboriginal students is 85%, compared to 92% for non-Aboriginal children.¹¹ In some towns the rate is much lower. For example, in Wilcannia, the reported attendance rate is 68% and in Boggabilla it is 64%.¹² However, we know that the official attendance figures do not accurately reflect the true extent of the problem.

Our current review of the circumstances of 48 'at risk' Aboriginal children and young people living in two remote communities has provided us with powerful evidence of the need to address the human tragedies behind the troubling statistics. The cohort was identified on the basis of age – between 9 and 12 – and other key risk factors. Already this review has revealed that a significant number of the children have failed to attend school for more than 50 days in a year, are living in homes where reports of family violence are prevalent, and have substantial child protection histories. Many of the children's parents also have a significant criminal history. In a number of cases, local police and school principals have reported their concerns through the child protection system to little or no avail. Chronic staffing shortages in high-need locations across the state have meant that, despite the significant risks for these children, many of them have not received any substantial response to the apparent ongoing breaches of their basic human rights.

4 Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, February 2010, p.11.

5 Australian Human Rights Commission, Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Change for the better is going to take time*, Media release, 8 August 2011.

6 NSW Auditor-General, *Performance Audit Report on Two Ways Together — NSW Aboriginal Affairs Plan*, May 2011, p.2.

7 NSW Department of Human Services, Juvenile Justice, *Juvenile Justice Annual Report 2009-2010*.

8 Figure provided by Juvenile Justice at a meeting with the Bourke community on 23 August 2010. Juvenile Justice does not publicly report on the number of Aboriginal and non-Aboriginal detainees by region.

9 NSW Family and Community Services, *Quarterly Data March 2010 - March 2011* (March 2011 quarter).

10 The Ombudsman has two statutory functions that relate to child deaths in NSW. The Ombudsman is responsible for reviewing the deaths of children who died as a result of abuse or neglect or in suspicious circumstances; children who died in care; and children who died in detention. 26% of children who died in these circumstances in NSW in 2008-2009 were Aboriginal children (NSW Ombudsman, *Report of Reviewable Deaths 2008-2009, Vol 1. Child Deaths*, 2011, p.15). The Child Death Review Team, of which the Ombudsman is [now] convener, reviews the deaths of all children in NSW in accordance with Part 7A of *Commission for Children and Young People Act 1998*.

11 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011.

12 Australian Curriculum, Assessment and Reporting Authority 2010, *My School*. www.myschool.com.au. Accessed 15 August 2011.

2.1 Why the current approach to addressing Aboriginal disadvantage is ineffective

From our work in overseeing the delivery of services to Aboriginal communities, we have seen examples of committed agency practice. For example, our extensive auditing in relation to police work with local Aboriginal communities¹³ has shown that the NSW Police Force has achieved some important breakthroughs in its relationship with Aboriginal communities. More recently, following our review¹⁴ of Ageing, Disability and Home Care's delivery of services to Aboriginal people, we were impressed with the commitment it showed to implementing a stronger model of accountability for the delivery of its programs and services to Aboriginal people, and its willingness to engage communities in the design of new and more flexible initiatives. In keeping with the strong focus of the Special Commission of Inquiry into Child Protection Services on improving service delivery to Aboriginal children and families, *Keep Them Safe* also contains a number of specific actions to enhance the capacity of Aboriginal services and improve responses to Aboriginal families in contact with the child protection system. A number of these initiatives are currently being trialled across the state.

The continuing disadvantage experienced by Aboriginal people does not reflect a failure by governments to dedicate financial resources to initiatives aimed at addressing it. In fact, significant public funds have been allocated by successive governments. Since 2008, the Australian Government and the states and territories have together committed an additional \$4.6 billion under *Closing the Gap*.¹⁵ In 2008-2009 – the year for which the most recent figures are available – the NSW Government spent \$2.65 billion on delivering services to Aboriginal people, including approximately \$240 million on Aboriginal specific services. While Aboriginal people comprise 2.3% of the state's total population, this expenditure accounted for more than 5% of the government's overall expenditure on service delivery.¹⁶

2.1.1. Recent reviews of major Aboriginal initiatives in NSW

Recent reviews of major Aboriginal initiatives in NSW have demonstrated the poor return on this level of investment. Our inquiry into service provision to the Bourke and Brewarrina communities provided a 'litmus test' of whether the various state and federal initiatives aimed at improving service delivery to high need Aboriginal communities – particularly in the context of child protection – have made, or are likely to make, a difference to these communities. The inquiry confirmed that the low uptake of many services by Aboriginal people is attributable in significant part to a disjointed and poorly targeted approach by government agencies notwithstanding good intentions and work done by individual agencies.

Our conclusion from that inquiry is consistent with the finding of the recently released *Strategic Review of Indigenous Expenditure* that:

*'Notwithstanding efforts in recent years, whole-of-government coordination remains a major challenge. Program management and service delivery remains fragmented rather than coordinated, with weak linkages within agencies, let alone across them. The multitude of separate disconnected programs runs contrary to the need for flexibility of service delivery, most obviously in remote locations, and creates a surfeit of red tape. Communication between agencies is too often poor, even where their responsibilities and interests are closely related.'*¹⁷

Communities are frustrated by what they perceive to be the imposition upon them of a multitude of 'off the shelf' programs and services, combined with inadequate consideration of how service delivery can be integrated 'on the ground', and how it might best reach those who are most in need. They want to see an end to the inefficiency and waste, and action resulting in tangible outcomes. Against this background, our Bourke and Brewarrina report highlighted that strong and effective leadership and governance arrangements, including strong accountability mechanisms for monitoring service outcomes, are needed to achieve real change.

13 In April 2005, we made a special report to Parliament on the ongoing implementation of the NSW Police Force *Aboriginal Strategic Direction* by 14 local police commands. Following our 2005 report, we continued to audit a further 22 police commands. Our audit program was finalised in 2007.

14 In 2010, we completed an 18 month review of ADHC's implementation of its *Aboriginal Policy Framework and Aboriginal Consultation Strategy*. See NSW Ombudsman, *Improving service delivery to Aboriginal people with a disability - A review of the implementation of ADHC's Aboriginal Policy Framework and Aboriginal Consultation Strategy*, Special report to Parliament, September 2010.

15 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, p.268.

16 Office of Aboriginal Affairs analysis of *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, Department of Finance and Deregulation, February 2010.

17 Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, February 2010, p.13.

This need for stronger accountability mechanisms was also the major finding of the NSW Auditor-General's performance audit of *Two Ways Together*, the former NSW Government's 10 year plan to improve the social, economic, cultural and emotional wellbeing of Aboriginal people in NSW.¹⁸ The Auditor-General acknowledged that some good work has taken place through the Partnership Community Program, but concluded that ultimately, the plan "has not delivered the improvement in overall outcomes for Aboriginal people that was intended."¹⁹ In response to the Auditor-General's report, the NSW Premier and Minister for Aboriginal Affairs commented that the implementation of *Two Ways Together* represented a "very serious policy failure".²⁰

An evaluation of Safe Families – the \$22.9 million flagship program in NSW aimed at reducing child sexual assault in Aboriginal communities – was also completed earlier this year.²¹ The evaluation found very little evidence of any impact from the program after two and a half years of operation. In many ways, Safe Families is illustrative of the broader problems associated with a service system characterised by poor planning and the rollout of 'piecemeal' initiatives combined with weak accountability structures. The findings of our Bourke and Brewarrina report and the Auditor-General's performance audit of *Two Ways Together*, together with the lessons from Safe Families, all point to the reform that is needed to effectively address Aboriginal disadvantage in this state.

2.2. What needs to change

The Strategic Review of Indigenous Expenditure found that in relation to addressing Aboriginal disadvantage, substantial government investments have "yielded dismally poor returns to date"²² and that in order to reverse this, "the need is not so much for higher levels of spending as to use existing resources...far more effectively."²³ We agree with this finding. Too often, programs are inadequately designed, poorly targeted and their effectiveness not evaluated. The inconsistent commitment to program evaluation means that there is often not a clear picture of which pilot programs have resulted in improvements.

In order for current resources to be more effectively utilised, there needs to be a different approach to the way that governments plan, fund and deliver services. This new approach needs to be clearly outlined in a consolidated plan of action that is specific about the intended outcomes, confronts the needs of those in crisis and contains integrated and clearly articulated strategies that promote self-reliance and adherence to social norms.

The history of Aboriginal policy and program development in NSW has been agency-centric. This has resulted in programs which are narrowly focused, often disjointed and lacking in flexibility. To make the changes necessary, it is essential that Aboriginal affairs be seen as core business for all agencies. This change needs to be driven from the centre of government. To this end, government needs to adopt a very different way of doing business with Aboriginal communities. While for many years there has been rhetoric about 'partnering' with communities, too often this has not translated into communities having genuine involvement in decision-making about the solutions to their problems.

As part of this new approach, major reform to the 'infrastructure' governing Aboriginal affairs in NSW is required. The reform process must involve a true partnership between government and Aboriginal leaders. The currently fragmented approach to the planning, funding and delivery of services to Aboriginal communities, and the absence of adequate mechanisms for holding agencies to account against their responsibilities, must also be addressed. At the same time, government needs to work with Aboriginal leaders in developing strategies to facilitate greater participation by Aboriginal people in successful economic endeavours – without this, it is difficult to see how long term gains can be made in other areas such as health and housing.

In the remainder of this report, we outline a number of critical areas where there will need to be real progress if Aboriginal disadvantage in NSW is to be effectively addressed. These involve:

- Establishing strong leadership and governance arrangements to effectively drive change 'on the ground' and measuring, and reporting on, progress in a meaningful way that makes sense at a community level.
- Reviewing the multitude of government commitments and reporting frameworks aimed at addressing Aboriginal disadvantage in order to formulate a consolidated whole-of-government strategy for meeting the Closing the Gap targets.
- Creating a more efficient and effective service sector through the adoption of a more centralised approach to decision making around local service planning, funding and delivery to Aboriginal communities, that involves:

18 NSW Auditor-General, *Performance Audit Report on Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011.

19 NSW Auditor-General, *Performance Audit Report on Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011, p.2.

20 Honourable Barry O'Farrell, MP, Premier of NSW and Minister for Western Sydney and Honourable Victor Dominello MP, Minister for Aboriginal Affairs, *Audit report shows Labor failed Aboriginal communities*, Media release, 18 May 2011.

21 A copy of the unpublished evaluation report was provided to us by the Safe Families partner agencies.

22 Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, February 2010, p.11.

23 Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, February 2010, p.11.

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- a comprehensive analysis of need
 - genuine engagement with communities, and
 - streamlined administration and improved scrutiny of the non-government sector.

particularly in high-need areas with significant Aboriginal populations.

- Adopting innovative ways to address critical issues such as improving the capacity to respond to vulnerable children and adolescents, tracking and achieving substantial improvement in educational outcomes and building economic capacity.
- Implementing greater transparency and accountability through establishing a mechanism for independent scrutiny.

As part of the reform agenda, there is a need for more clearly articulated strategies that 'spell out' the specific action that will be taken to address the underlying causes of Aboriginal disadvantage. However, while longer term strategies are necessary to address structural disadvantage, there is also an urgent need to take immediate steps to respond to the most acute problems facing many Aboriginal communities. Our ultimate goal should be "to empower Indigenous people and communities... so that they can progressively take meaningful control of their futures".²⁴

²⁴ Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, February 2010, p.13.

Chapter 3. The importance of Aboriginal leadership in bringing about change

What needs to change

- Establish more effective and ongoing mechanisms for government to engage with Aboriginal representatives at a state-wide, regional and local level.
- Commit to the provision of adequate information by government to Aboriginal representatives, to promote informed discussion and decision making at all levels.
- Enact legislative change to enable local Aboriginal community leaders to perform a 'community conferencing' role aimed at intervening with vulnerable Aboriginal families before the commencement of formal proceedings under the Children and Young Persons (Care and Protection) Act and the Education Act.
- Develop a clear state-wide plan for building the capacity of Aboriginal peak bodies and Aboriginal organisations in key sectors.
- Provide sustained support to healing programs that have been endorsed by Aboriginal communities.

On 3 April 2009, the Australian Government gave formal support for the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration). The main theme of the Declaration is resetting the relationships between Indigenous peoples, the broader community and governments.²⁵ Self-determination is the central right of the Declaration.

As recently pointed out by Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda "We need to increase people's *understanding of what it means to 'implement the Declaration'* and one of the best ways to do this is through education".²⁶

The *Community Guide to the Declaration* states that for self-determination to be realised, three things must occur for Aboriginal people:

- We have a **choice** in determining how our lives are governed and our developmental paths.
- We **participate** in decisions that affect our lives.
- We have **control** over our lives and future, including our economic, social and cultural development.²⁷

In order for Aboriginal people to live according to these principles they need to have the power to take responsibility for reshaping and creating a new vision for their communities. Governments have a critical role in facilitating this. While there is a need to ensure effective welfare and other support services are in place to meet the needs of those most vulnerable in communities, it is vital that the overall focus of any plan to address Aboriginal disadvantage is on strengthening the capacity of individuals to take control of their own lives. Improving education and employment outcomes are crucial in this regard; so too will be strategies directed towards intervening early to break the patterns that entrench dependency.

A major re-think is needed in relation to the way government plans and funds the delivery of services to Aboriginal people. Greater investment is needed to address the underlying causes of Aboriginal disadvantage, rather than simply treating its symptoms. Developing initiatives that promote and equip Aboriginal people to take control of their own future must be carried out with Aboriginal leaders. Instead of a service approach principally focused on meeting 'people's needs', there must be a focus on developing the skills to assist people – and families — to 'get ahead' and work towards achieving goals. More broadly, it is critical that government works in partnership with Aboriginal leaders to build the 'social and economic capital' within Aboriginal communities.

25 Australian Human Rights Commission, *Community Guide to the UN Declaration on the Rights of Indigenous Peoples*, December 2010, p.1.

26 Australian Human Rights Commission, *UN Declaration on the Rights of Indigenous Peoples should be fully implemented*. Media release, 13 September 2011.

27 Australian Human Rights Commission, *Community Guide to the UN Declaration on the Rights of Indigenous Peoples*, December 2010, p.24.

The Government's inclusion of independent Aboriginal advisors on its recently established Ministerial Taskforce on Aboriginal Affairs – Professor Shane Houston, Deputy Vice-Chancellor (Indigenous Strategy and Services) of the University of Sydney as well as Danny Lester, the CEO of the Aboriginal Employment Strategy – reflects the need to work with Aboriginal leaders in “two areas vital to achieving generational change”: education and employment.²⁸ The Taskforce will also include a representative of the recently established Coalition of Aboriginal Peak Organisations of NSW.

It is also significant that the Minister for Aboriginal Affairs announced that, at the request of the Taskforce, the Director of the Cape York Institute and Executive Director of Cape York Partnerships,²⁹ Noel Pearson, has been invited to provide assistance as a special advisor on select matters. Cape York Partnerships was responsible for the design and development of the Cape York Reform trial, and is a signatory to the Agreement underpinning its implementation.

The Cape York reforms are an example of an Aboriginal community-driven leadership model in partnership with both the state and federal government that is seeking to work through, and develop solutions for, many of the same challenges facing Aboriginal communities in this state. Importantly, the Cape York reforms are explicitly relevant to the focus areas of the Ministerial Taskforce – improving education outcomes for Aboriginal children and young people; and building the economic capacity of individual Aboriginal people and their communities.

In August this year, along with Aboriginal community leaders from Bourke,³⁰ we had the privilege of visiting the four communities participating in the trial, as well as the Doomadgee community, one of the Federal Government's 29 Remote Service Delivery sites. A profile of the Cape York Welfare Reform agenda is attached at Appendix 1.

3.1. Sitting at the table with Aboriginal leaders

In response to the creation of the Ministerial Taskforce, the Chairperson of the NSW Aboriginal Land Council, Stephen Ryan, said: “We are confident that progress will be achieved when the Aboriginal people of NSW sit at the table in true partnership with the NSW Government to identify issues and solutions”.³¹ Danny Lester, independent Aboriginal advisor to the Taskforce and CEO of the Aboriginal Employment Service, noted that: “This Taskforce will ensure that future NSW Government investment is aligned towards economic independence for Aboriginal people in NSW. It will give all Indigenous people living in NSW options to enable them to reach their full potential.”

Professor Houston's considerable experience in the area of Aboriginal health provides insights into the work which needs to be done in building leadership in Aboriginal communities and involving Aboriginal people in critical decision making. Professor Houston has noted that “Aboriginal health issues are, at least in part, due to Aboriginal people being unable to live the life they value... If mechanisms are put in place to allow this to happen, their health will improve. Conversely, if such an approach is not taken, any significant improvement is unlikely.”³²

In NSW we have met many strong Aboriginal leaders, organisations, peak bodies and advocates – both at a community and state-wide level. While over the past decade government agencies in NSW have made progress in their working relationship with Aboriginal people across a range of areas, there is significant scope to engage Aboriginal leaders and communities far more strategically in planning and decision-making processes associated with Aboriginal affairs. Much of the engagement by government agencies with Aboriginal leaders and organisations to date has centred on progressing specific issues and/or policies rather than giving consideration to the broader vision Aboriginal leaders have for their people including how best to build the social and economic capacity of Aboriginal communities.

As is evident from the comments of the leaders cited in this section, an ongoing and robust dialogue between government and Aboriginal leadership is a necessary component of formulating a cohesive approach to identifying, and delivering on, the goals of Aboriginal people. For meaningful dialogue to occur, government must establish formal mechanisms to engage with Aboriginal people, and for this engagement to be embedded in a much stronger accountability framework. This involves providing Aboriginal leaders with the necessary information to inform their decision-making, and the authority to facilitate outcomes at local, regional and state-wide levels.

28 The Honourable Victor Dominello MP, Minister for Aboriginal Affairs, *Senior Ministers and Aboriginal Leaders form New Taskforce*, Media release, 25 August 2011.

29 Cape York Partnerships is an Indigenous organisation owned by the Indigenous people of the Cape York Peninsula.

30 Alistair Ferguson, Chair of the Bourke Aboriginal Community Working Party (former A/Chair of the Murdi Paaki Regional Assembly) and Sergeant Michael Williams, APM - member of the Bourke Aboriginal Community Working Party.

31 The Honourable Victor Dominello MP, Minister for Aboriginal Affairs, *Senior Ministers and Aboriginal Leaders form New Taskforce*, Media release, 25 August 2011.

32 Cited by Briggs, Lisa, 'An Overview of Current Workforce Issues'. *Aboriginal and Islander Health Worker Journal*, Vol. 28, No. 3, May/June 2004, pp. 21-25. www.search.informit.com.au/documentSummary;dn=156292770126947;res=IELHSS Accessed 9 September 2011.

While it is important for government to work with Aboriginal leaders in establishing stronger Aboriginal community governance structures, it is also critical that there is 'good government governance'. The need for government agencies to be clear about their own decision-making and governance processes was aptly illustrated by the then chair of the Bourke Aboriginal Community Working Party, Phil Sullivan, at a meeting with government service providers and community in 2010, when he asked: "Who has the clout to make it happen?" For Aboriginal people to want to engage in consultation processes with government, they need to see that real and tangible action results from their participation. If this does not occur, any investment in facilitating stronger community governance will be fruitless.

As the Taskforce has a focus on building the economic capacity of Aboriginal communities, it will also be important to involve Aboriginal enterprises in developing ideas in this area. In Chapter 6 of this report, we discuss the need for government to facilitate partnerships between the private sector and Aboriginal entities. Without significant progress being made in building the economic prosperity of Aboriginal people in NSW, it is difficult to see how gains can be made in improving outcomes across-the-board for Aboriginal people.

*'Fundamental to ending Aboriginal dependency will be the ability of Aboriginal communities to establish a more robust corporate life, identifying corporate concerns and development goals and strategies themselves.'*³³

As the largest self-funded Aboriginal representative organisation in Australia, the NSW Aboriginal Land Council (NSWALC) has a key role to play in formulating economic opportunities. The objects of the NSWALC are to use the gains from land rights to continue to create intergenerational wealth and to continue to develop sustainable benefits which contribute to the financial, social, and cultural needs and wants of Aboriginal people in NSW.³⁴

Building the economic capacity and wealth of Aboriginal people will require government to identify and address the factors which act as barriers to Aboriginal organisations actively participating in the real economy. Given NSWALC's significant asset base and its responsibilities to contribute to the economic, social and cultural development of Aboriginal people, NSWALC and its network of Local Aboriginal Land Councils (LALCs) has a critical role to play in establishing partnerships with government, the corporate sector, philanthropic bodies and others, that are focused on developing innovative enterprises that create real opportunities for Aboriginal people. Examples of emerging Aboriginal enterprises are noted in our building economic capacity discussion in Chapter 6.

While peak bodies and other experts will provide valuable strategic advice to government, it is vital that the views and ideas of individual communities are also heard. In the following sections we discuss the changes needed to give community leaders a greater say and a more direct role in reshaping their communities.

3.2. Building community capacity

Government has a pivotal part to play in building the capacity of Aboriginal communities, and the leaders within those communities, to advocate and agitate for real change. This is easier said than done. In many of our most disadvantaged communities, there is a need to strengthen community governance in order to give residents a real say over the policies and programs that impact on their lives. Building capacity also involves addressing the legacy of violence, trauma and dislocation from family and culture that continues to impact on the wellbeing of too many Aboriginal people. Healing programs assist affected individuals, but can also help heal associated family and community division and dysfunction.

Internationally, there is increasing recognition that the key to effective community development is to focus on capacity building and the creation of social capital at a community level. According to this approach, capacity building requires genuine participation and leadership by community members in the decisions that affect their lives. Rather than simply relying on government departments to deliver programs and assistance, organisations and individuals need the economic independence and the knowledge to build their own communities. For this to be possible, the skills of individuals and community institutions need to be developed, and communities must be provided with the necessary resources and support.³⁵

33 Pollard, D. *Give and take: the losing partnerships in Aboriginal poverty*, Hale and Iremonger, Sydney, 1988, p.110.

34 NSW Aboriginal Land Council, Annual Report 2009-2010, p.10.

35 Fowler, A., *Striking a Balance: A guide to enhancing the effectiveness of non-governmental organisations in international development*. Earthscan Publications Limited, London, 1997.

According to Greg Telford, Managing Director of Rekindling the Spirit,³⁶ a starting point for building Aboriginal leadership needs to be building leaders within families:

*'The high levels of dysfunction within communities and families needs to be addressed from the 'inside out not the outside in' – which is what is happening at the moment... Governments need to empower and build the capacity of families and community leaders so that they can steer their people in the right direction.'*³⁷

Thus one important challenge for government is to build the capacity of individuals and communities generally, so that Aboriginal people become active participants in forming government policy rather than passive recipients of programs and assistance.

Although governments and government agencies in Australia have readily embraced the language of 'capacity building' in their dealings with Aboriginal people, attempts to implement a genuinely inclusive, community-driven approach to service delivery have often been far from effective.³⁸

In looking for models of effective capacity building that could be adapted to Aboriginal communities in NSW, the NSWALC and University of Sydney have recently established a partnership with Gawad Kalinga, an NGO that has implemented a community development program in more than 300 communities in the Philippines. In its initial stages, the Gawad Kalinga program aims to develop community leadership and to foster self-governance and self-sufficiency among residents. Over time and with the right support, this approach can pave the way for social entrepreneurship in the form of community infrastructure, self-sufficient food supply, youth programs, basic health care and environmental sustainability projects.³⁹

3.2.1. Strengthening Aboriginal community governance

*'...establishing and supporting community governance bodies is the means by which government can help give Aboriginal people a strong voice in planning and designing how their needs and aspirations are met.'*⁴⁰

Strong community governance is integral to giving practical effect to the principles of self-determination. It is well-documented that strong and well-governed communities are more likely to be successful in bringing about change.

The very Aboriginal communities that most need integrated, efficient and effective leadership and decision-making are often those where governance processes are weakest. Issues such as endemic violence, high levels of abuse and child neglect, poor health, substance abuse and high unemployment, often remain neglected or the service responses to these issues are fractured and poorly coordinated. This partly happens because these communities can often struggle to create and sustain the leadership needed to pressure government agencies and other services to take and maintain the action needed to effectively work with Aboriginal people to turn these problems around.

In dealing with divided communities, agencies and other services often struggle to establish, in a practical sense, just who the Aboriginal people are that they should be partnering with. There may also be multiple layers of governance that impede rather than encourage efficient and integrated consultation processes. These include groups established by individual government agencies and/or local councils, land councils, and reference groups established by agencies or communities themselves to deal with various initiatives and particular issues.

Agencies have a responsibility to build capacity and assist high-need communities to implement effective action. Yet too often the fractured, poorly planned or poorly executed responses of government and non-government agencies can further reinforce existing schisms and ill-informed or flawed decision-making. In many cases, when agencies are eager to take firm action to tackle a priority issue, there can be a temptation for them to:

- simply impose or press ahead with programs or initiatives intended to address priority concerns without adequately engaging with local communities, or
- create their own community committees or governance structures that bypass existing or weak decision-making and consultation processes.

Both of these approaches may be well-intentioned – and sometimes necessary to overcome inertia on issues involving immediate threats to individual safety and wellbeing. However, both also risk further undermining the capacity of communities to advocate on priority issues and take charge of their own affairs.

36 Greg Telford is also the former Chairperson of the Ministerial Advisory Panel on the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*.

37 Information provided by Greg Telford, 19 September 2011.

38 McGinty, S., *Community capacity building*. Paper presented to the Australian Association for Research in Education Conference, Brisbane, 2002. www.aare.edu.au. Accessed 5 September 2011.

39 Gawad Kalinga, *Building Mighty Currents of Hope: 2009 Annual Report*, 2010.

40 Conclusion of the Auditor-General in relation to the local level implementation of *Two Ways Together* based on discussions with community governance bodies NSW Auditor-General, *Performance Audit Report on Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011, p.20.

In relation to imposing programs and initiatives on communities, there is a risk that without some level of community engagement, agencies will overlook or ignore factors that ultimately cause these programs and initiatives to fail. The Office of Aboriginal Affairs' Safe Families program is illustrative of this problem. Despite it being described as a 'location specific' and collaborative program that involves agencies working with communities to provide early intervention and prevention services, increased child protection responses and integrated community development, none of the five Safe Families communities were asked whether they were ready for such a program before it was imposed on them. Safe Families has been largely ineffective to date, primarily because of the limited capacity of the relevant services in those areas, the complete lack of vision as to what Safe Families is actually meant to deliver and how what it offered was supposed to dovetail with the existing system. In implementing Safe Families, there was also an unsuccessful attempt to create separate child sexual assault reference groups for each community, even in locations where there were existing groups tasked to deal with those issues.

Community division, fractured governance and poor coordination often exist in high-need communities. One highly regarded Aboriginal community leader complained to us that he was a member of more than 30 different committees. He recognised that many had important responsibilities and that community input was crucial if various federal, state and local government agencies and the non-government sector were to be more effective. However, this kind of fragmented 'silo' approach is wasteful and ineffective, creates duplication and asks too much of already stretched community leaders. An even riskier and more corrosive approach is when agencies give lip-service to consultation by engaging in ad hoc processes, then use the nominal support of particular groups or factions to endorse a proposed course of action.

Government has a clear role to play in working with Aboriginal communities in strengthening their ability to take on greater levels of responsibility in determining how their communities are governed. Yet the only substantial NSW Government investment in this area has been through the Office of Aboriginal Affairs' (OAA's) Partnership Community Program. This program, which began in 2009, identified 40 locations where assistance was provided to develop structures aimed at helping 'Aboriginal communities and government agencies to work together to improve outcomes for Aboriginal people on the ground'. In practice, this involved employing project officers to clarify what was already in place, help communities develop 'community governance bodies', then look for ways to assist local governance bodies to 'work with government agencies to identify community priorities and develop an action plan in response'.

The Partnership Community Program seeks to focus much-needed attention on the importance of strong community governance and the need for government to work with individual communities to achieve this. However, just 21 of the 40 communities involved in the program have successfully established Partnership Community Governance Frameworks⁴¹ – with most of these having only been recognised in the past 12 months.⁴² Clearly the program still has some way to go to achieve its goals of improved service delivery and outcomes for Aboriginal people, and stronger Aboriginal community wellbeing. We note that the NSW Government has committed to reviewing the Partnership Community Program to "increase governance capacity within communities and strengthen local decision making by linking with existing Aboriginal community governance and representative arrangements".⁴³ If the program is retained, its community strengthening work should be subject to a more rigorous accountability framework so that any evidence of real change can be tracked and promoted. In this regard, we believe there is a need for greater clarity around precisely what 'change' the program is meant to effect and how this will be measured. Unless programs of this type ultimately result in real outcomes then they will only serve to harden the views of some that 'things will never change.'

A significant non-government investor in programs to strengthen governance at a local community level is the NSW Aboriginal Land Council. Through its Training and Development Unit, the NSWALC provides an extensive range of training and development to its network of LALCs, including mandatory training for those community members who are elected to board of management positions. This training is principally aimed at assisting LALCs to improve the efficiency and effectiveness of all land council operations.⁴⁴ The training and development assistance provided by the NSWALC is generally well-received. Board members who have previously completed mandatory governance training are not required to do it again, yet many re-elected board members chose to do so. The NSWALC has also developed an innovative online mode of delivery to extend the availability and timeliness of its training. Its training was recognised as a finalist in the 'Innovation' category of the NSW Training Awards presented in September 2009. NSWALC has recently been asked to contribute to a project to improve governance in the Aboriginal Health and Medical Research Council, in Aboriginal medical services across Australia and to develop more robust corporate governance models for the Aboriginal Community Controlled health sector generally.

41 Information provided by the Office of Aboriginal Affairs, 16 September 2011.

42 NSW Auditor-General, *Performance Audit Report on Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011.

43 NSW Government, *NSW 2021 (State Plan)*, September 2011, p.49.

44 NSW Aboriginal Land Council, *Annual Report 2009-2010*, p.34.

In some locations, local government also contributes to building capacity in this area. Across NSW, there are numerous examples of local councils using crime prevention and social planning initiatives as a way to engage with and support Aboriginal leadership. Although the form and effectiveness of these kinds of groups and committees vary considerably, it is important to recognise the contribution they can make in creating opportunities for grassroots advocates to voice the concerns and ideas of their communities.

Efforts to create coherent governance frameworks at a regional level have been far from effective. *Two Ways Together* included a requirement that government agencies develop regional structures to guide their engagement with Aboriginal people. This was a step in the right direction in terms of trying to clarify who in government had the authority to lead important 'whole of government' initiatives, but one that ultimately failed in many regions because the focus was on inter-departmental groups and committees – with little regard given to the limited availability of Aboriginal people or organisations for agencies to partner with when trying to initiate regional programs and initiatives.⁴⁵

In creating more effective governance arrangements, Aboriginal people repeatedly make the point that there can never be a 'one size fits all' solution. However, in looking for opportunities to strengthen community governance, we must recognise the following:

- There is a need to reduce and rationalise the number and complexity of reference groups, consultative bodies and working parties in each community.
- Government needs to actively support recognised forums and bodies by directing agencies to include them in consultations.
- At the same time, agencies must recognise that a single forum can rarely represent the views of a divided community about controversial or contentious issues, and that there will often be a need for agencies to supplement formal consultations with informal talks and information sessions.
- There is a need for a strong focus on the membership of recognised forums and bodies – the group should not only represent the community, but also include members who have the particular knowledge and expertise to deal with critical issues.
- Active consideration should be given to appropriate training and mentoring to broaden the knowledge and skills of forum members, and to reduce barriers preventing new members from getting involved.
- In any consultations, agencies must provide groups and forums with the data and information needed to inform their deliberations – a failure to do so, represents a lack of respect and professionalism on the part of agencies' representatives.⁴⁶
- There is a need for groups and forums to focus on achieving tangible and critical outcomes. Ultimately, agencies must be accountable for any commitments made. This requires them to report back to the forums that they consult with, and to keep their community partners informed of relevant issues.

For community governance structures to be effective, government must be ready and able to respond to the priorities that communities identify. Through our work with Aboriginal communities over many years, we have seen numerous examples of government agencies 'coming to the table' with ill-defined proposals, an inadequate grasp of critical data and vague notions of 'partnership' but no clear ideas as to how their Aboriginal community 'partners' can best contribute. Aboriginal community leaders, particularly those who participate in numerous groups and consultations as volunteers, can be expected to have a sound grassroots understanding of the broad needs of their communities. But they have the right to expect that governments – and other representatives – 'come to the table' only after they have done the necessary preparatory work. Finally, agencies must ensure that sufficiently senior representatives with the authority to make decisions and progress initiatives are deployed to consult with Aboriginal communities.

Government must also be able to demonstrate evidence of early success. People who volunteer their time to take part in local and regional governance processes need to see that their participation leads to real and practical outcomes. Without this, the momentum will be lost and communities will become despondent.

We will consider this issue further in Chapter 7 as part of our discussion of the strategies needed to ensure that agencies and other services are accountable for delivering on the commitments that they make to Aboriginal communities in high-need locations.

⁴⁵ NSW Auditor-General, *Performance Audit Report on Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011.

⁴⁶ It is our observation from our many consultations with communities that this rarely occurs.

3.2.2. Enhancing the capacity of the Aboriginal service sector

One of the most consistent messages we have heard from Aboriginal representatives is the value of community people providing services to their own communities. Over a number of years, and through various reports and submissions,⁴⁷ we have highlighted the need for government agencies to partner with Aboriginal leaders, peak bodies and communities to 'invest in' building the capacity of the Aboriginal service sector.

The Special Commission of Inquiry into Child Protection Services in NSW (the Wood Inquiry) also emphasised the importance of enhancing the capacity of the Aboriginal service sector to ensure that a broad range of competent and culturally appropriate services are available in communities. The Inquiry recognised the critical need to expand and strengthen the services provided by Aboriginal organisations. In doing so, it also drew attention to the limited capacity of a number of Aboriginal organisations to establish effective partnerships with agencies such as Community Services, noting that:

*'the quantity and difficulty of the work required to bring Aboriginal NGOs to the point where they can realistically take full responsibility for the safety and welfare of Aboriginal children should not be underestimated.'*⁴⁸

In line with the recommendations of the Wood Inquiry, *Keep Them Safe* referred to non-government service providers playing a more prominent role in the delivery of frontline services to children, young people and families in NSW. In doing so, it recognised that there are too few Aboriginal services, and that building the capacity of the Aboriginal service sector is an essential component of delivering services which are tailored to the specific needs of Aboriginal communities. *Keep Them Safe* committed to transitioning the delivery of existing 'Aboriginal programs' to Aboriginal organisations and through its NGO capacity building plan (developed by KPMG), included a focus on the Aboriginal service sector.⁴⁹ The precise extent to which this plan has succeeded in identifying new, and expanding existing, Aboriginal services is somewhat unclear – although what is apparent is that the overall gains have been limited.

In addition to the child and family sector, the health and disability sectors also have plans to strengthen the capacity of Aboriginal services and increase their Aboriginal workforce. However, as with many other initiatives, it appears that individual departments (and often agencies within the same department) are developing these capacity building initiatives on their own. This is despite the fact that many Aboriginal organisations provide multiple services across a range of disciplines. Given the importance of building strong Aboriginal services, there would appear to be a compelling case to address this issue through an integrated 'whole of government' response.⁵⁰

It is also critical that at a local level, individual communities have a clear sense of the plans for, and active involvement in, the building the capacity of Aboriginal services in their community. At a state-wide level, a clear plan should be in place for building the capacity of Aboriginal peak bodies which specifies their role in supporting the growth of individual Aboriginal organisations. Further, the development of an over-arching whole of government plan — and associated local community plans – to build the capacity of the funded Aboriginal service sector, must be directly linked to broader planning initiatives for building employment and economic capacity.

Finally, as we have already emphasised in previous reports relating to improving service delivery to Aboriginal communities, capacity building needs to involve providing Aboriginal services with sufficient time, and the necessary supports, so that they are not set up to fail. For this reason, it is important that experienced Aboriginal organisations, as well as mainstream providers with a proven track record of delivering quality services to Aboriginal people, are strategically mobilised to support the expansion of the Aboriginal service sector. In addition, corporate Australia could play a greater role in providing support and mentoring. Consistent with the principles of self-determination, the purpose of any support arrangements should be to work towards the establishment of Aboriginal organisations that provide high quality services. What is pleasing to report is the significant growth in the number of Aboriginal service providers in fields such as health, community services and employment which provide excellent service delivery. With a more strategic and integrated approach in these fields, this growth can be accelerated. However, as part of the planning process, how best to build a solid base of Aboriginal services across all high-need communities where the services system has struggled to attract and retain staff will need to be carefully examined.

47 See for example, NSW Ombudsman, *Supporting the carers of Aboriginal children*, June 2008.

48 Honourable James Wood AO QC, *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, November 2008, Volume 2, p.425.

49 KPMG, *A Shared Approach to Child Wellbeing: A plan for building the capacity of non-government organisations (NGOs) to take an extended role in service delivery and for developing the workforce*, 2010.

50 Ideally, this sort of response should be developed jointly with the Federal Government.

3.2.3. Healing and culture programs

For many Aboriginal people, the harms suffered by individuals who have experienced violence, trauma and dislocation are inextricably linked to high levels of community dysfunction and division. Many Aboriginal people who we have consulted, particularly participants in the growing movement of Aboriginal men's and women's groups, have emphasised that tackling family and community dysfunction will only begin to be effectively addressed through broadening access to healing programs.

The Federal Government's recognition of the need for Aboriginal-run healing programs led to its support, in late 2009, for the creation of the Aboriginal and Torres Strait Islander Healing Foundation Ltd, "a national, Indigenous-controlled, not-for-profit organisation established to support community-based healing initiatives".⁵¹ The government committed \$26.6 million over four years to fund programs supported by the foundation.

The House of Representatives' Standing Committee on Aboriginal and Torres Strait Islander Affairs also acknowledged the importance of healing programs in its June 2011 report, *Doing Time – Time for Doing*. It noted the high levels of mental, physical and/or sexual abuse affecting the wellbeing of many Aboriginal communities and highlighted the "substantial number" of Indigenous young people entering detention who have suffered trauma and have social and emotional health issues. It concluded:

*'The Committee recommends the Commonwealth Government recognise mental health as a significant issue affecting Indigenous youth and collaborate with the states and territories to direct funding where possible to successful Indigenous community developed and led programs with a focus on healing, culture, emotional wellbeing and reconnection with family.'*⁵²

Of the four programs cited by the Committee as positive examples of Aboriginal-run healing programs that should be supported and extended, two are well established in NSW: Red Dust Healing and Rekindling the Spirit. Both have a strong focus on healing and culture.

Profile: Red Dust Healing

Originally developed and run in Queensland, the aim of the Red Dust Healing project is to give Aboriginal men an understanding of identity, and self evaluation skills, develop future role models and fathers, and restore family relationships. The program, led by Tom Powell, helps Aboriginal men examine personal issues and how they affect family and personal relationships, including the ongoing negative behaviours that they may engage in, for example, violence and abuse. The project incorporates traditional practices and highlights their role in everyday life. Case management plans allow for ongoing support to be provided by mainstream and Aboriginal service providers and for Aboriginal Elders who deliver the programs.

In practice, the program can only operate in locations where there is funding and other support. For instance, the NSW Attorney General and Justice Department – in partnership with Lismore City Council and a local service, Community Connections – sponsored a series of Red Dust healing camps in the Northern Rivers region for Aboriginal boys and young men aged 13-18 years who were identified as being at risk of involvement in crime. That program was developed in consultation with police, the local community and Bundjalung Elders. Up to 12 participants attended each camp.

A strength of Red Dust Healing is its case management approach. We have received positive feedback from significant numbers of community people who have had an opportunity to take part in, or have seen the benefits of, its programs.⁵³

51 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, at 4.68.

52 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, Recommendation 10.

53 Australian Indigenous Health Info Net, *Red Dust Healing*. www.healthinfonet.ecu.edu.au/key-resources/programs-projects?pid=118. Accessed 29 January 2009.

Profile: Rekindling the Spirit

Based at Lismore, Rekindling the Spirit began in 1998 as a way of encouraging men in abusive relationships to confront the underlying causes of their behaviour and take responsibility for their actions. Under the leadership of Greg Telford, its work has evolved and expanded. The service now aims to support Aboriginal men and women to be empowered through spiritual, emotional, sexual and physical healing. Run by and for Aboriginal people, the service provides individual, couple and family counseling; men's and women's groups; cultural and healing camps and retreats; advocacy and support; crisis and employment assistance.⁵⁴ It also delivers a range of services to address the issues facing many Aboriginal offenders, particularly family violence, drug and alcohol abuse and child abuse and neglect. A number of government agencies, including Corrective Services and Community Services, have supported and formed partnerships with Rekindling the Spirit in the Northern Rivers area.

In addition to helping participants in their own programs to understand and come to terms with issues impacting on their wellbeing and helping to break the cycle of intergenerational dysfunction and abuse, Rekindling the Spirit and other healing groups provide valuable leadership in assisting Aboriginal men's and women's groups across Australia to establish their own culture and healing programs.

There needs to be a sustained commitment by government to actively support programs of this type at both strategic and local levels. Although government interest in healing and culture programs often focuses on offending behaviour and rehabilitation, the programs are also integral to building social cohesion in communities by strengthening self esteem and developing social norms and behaviours.

⁵⁴ *Rekindling the Spirit* www.rekindlingthespirit.org.au. Accessed 29 January 2009.

Chapter 4. Improving the capacity to respond to vulnerable Aboriginal children and adolescents

What needs to change

- Urgently address the acute workforce capacity challenges in rural and remote NSW by developing and implementing a whole-of-government recruitment and retention strategy.
- Adopt an intelligence-driven approach to child protection practice (consistent with recommendations 1c of our December 2010 report, *Inquiry into service provision to the Bourke and Brewarrina communities* and 1c of our August 2011 report, *Keep Them Safe?*).
- Explore bold child protection solutions that require responsibility to be shared between key agencies and community members, particularly in high-need locations with serious workforce capacity problems.
- Intervene earlier in the lives of at-risk Aboriginal children and adolescents, through providing effective interagency responses and exploring community-driven proposals aimed at improving their welfare and wellbeing.
- Provide a broader suite of options for responding to the needs of high-risk Aboriginal adolescents, in particular, suitable accommodation models for those involved in the criminal justice system.

The National Partnership Agreement on Indigenous Early Childhood Development acknowledges that Indigenous children are the most vulnerable group of children in Australia.⁵⁵ Although they comprise just 4% of the state's juvenile population,⁵⁶ Aboriginal children and young people in NSW are significantly over-represented in both the child protection and criminal justice systems. In 2009-2010, they were almost nine times as likely as non-Aboriginal children to be the subject of substantiated child protection notifications, and ten times as likely to be on a care and protection order.⁵⁷ Overall, one-third of all children in out-of-home care placements are from families who identify as Aboriginal.⁵⁸ In 2007-08, 48% of Aboriginal juveniles in NSW of interest to police were transferred to court, compared with 21% of non-Aboriginal juveniles.⁵⁹ Aboriginal young people are also significantly more likely than non-Aboriginal young people to be incarcerated, comprising approximately 50% of detainees⁶⁰ – higher in Western NSW, where they make up over 80% of detainees.⁶¹

Based on our investigations into matters involving inadequate responses to serious child abuse and neglect, our legislative child death review work, and our extensive consultations with Aboriginal communities, we have been drawing attention to a crisis in the capacity to respond effectively to vulnerable Aboriginal children and young people for a number of years. This crisis is most acute in remote parts of the state, where some of the most disadvantaged Aboriginal communities are located.

55 National Partnership Agreement between the Commonwealth Government and State and Territory Governments regarding Indigenous Early Childhood Development, July 2009, p.2.

56 NSW Commission for Children and Young People, *A picture of NSW children: Demographics and Characteristics*. www.picture.kids.nsw.gov.au/1/2/1/. Accessed 6 September 2011. Figure based on 2006 Census (age 0-17).

57 A total of 4,555 (64.4 per 1,000) Aboriginal children were on care and protection orders, compared with 10,132 (6.5 per 1,000) non Aboriginal children. Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011. Table 4.10.1.

58 NSW Department of Human Services, *Community Services, Community Services - Annual Report 2009/10*, 2010. p. 128.

59 Richards, Kelly, *Juveniles contact with the criminal justice system in Australia*, Australian Institute of Criminology Monitoring Reports No.07, Canberra, September 2009, p.p. 58-59.

60 Indig, D., Vecchiato, C., Haysom, L., Beilby, R., Carter, J., Champion, U., Gaskin, C., Heller, E., Kumar, S., Mamone, N., Muir, P., van den Dolder, P. & Whitton, G., *2009 NSW Young People in Custody Health Survey: Full Report*. Justice Health and Juvenile Justice., 2011, p.12.

61 Information provided by Juvenile Justice representative at our meeting with the Bourke community on 23 August 2010. Juvenile Justice does not publicly report on the number of Aboriginal and non-Aboriginal detainees by region. See NSW Ombudsman, *Inquiry into service provision to the Bourke and Brewarrina communities, Special report to Parliament*, December 2010, p. iii.

One of our submissions to the Special Commission of Inquiry into Child Protection Services in NSW (the Wood Inquiry) in 2008 concerned the need to better respond to serious child abuse and neglect in Aboriginal communities and drew particular attention to the relationship between the lack of capacity and the poor planning, implementation and accountability processes.⁶² Our submission highlighted:

- The need to prioritise Aboriginal access to existing services.
- The fact that Aboriginal people are more likely than non-Aboriginal people to reside in high-need rural locations, where general service-provision is often stretched, skill shortages are common and small numbers of staff must cover vast distances, making systems more susceptible to failure.
- The lack of protective factors for many children in certain communities – with unstable family environments, unsafe home environments, poor parenting, no jobs and low aspirations.
- Poor services and poor service integration.⁶³

Our 2010 Bourke and Brewarrina inquiry particularly highlighted the lack of service integration that undermines the effective planning and delivery of child protection and related services; the inadequate capacity of the child protection system in high need rural and remote locations; and the urgent need for agencies to take an intelligence driven approach to identifying and responding to those children most at risk of harm. (We discuss the issue of service integration in more detail in Chapter 7 of this report).

Most recently, our August 2011 report to Parliament on *Keep Them Safe* examined the post-reform capacity of the child protection system to respond to children at risk of significant harm.⁶⁴ Our review showed that, despite a very significant drop in demand as a result of changes to the threshold for making a child protection report to Community Services, fewer children are reported as receiving face-to-face assessments under the new system. Furthermore, during the first 12 months of the new child protection system – *Keep Them Safe* – one quarter of reports assessed by Community Services as requiring some form of intervention received no response at all.

In terms of Aboriginal children, *Keep Them Safe* includes a suite of initiatives aimed at better protecting Aboriginal children. Our concern is that for Aboriginal children at risk of significant harm in high need communities, we do not believe that the evidence indicates we are currently building a child protection system that can protect their human rights. For example, our ongoing child protection work continues to raise significant issues about the very limited capacity of the child protection system in Western NSW.

4.1. Child protection casework

For several years, various parties have brought to our attention the large number of serious child protection reports in Western NSW that are continuing to be closed by Community Services on the basis of 'competing priorities'. For all of these matters, notwithstanding that Community Services' centralised assessment process has determined that a child may be at risk of significant harm, no substantive casework activity takes place prior to the closure decision.

Recent advice we've received from Community Services has again highlighted the chronic staffing shortages which are behind this lack of action. For example, Community Services told us that for the period January to March 2011, there was, on average, 5.17 caseworkers (of which "an average of 3.2 caseworkers were trained") available to respond to the 177 child protection matters received across the Bourke, Brewarrina, Walgett and Cobar Community Service Centres (CSCs).⁶⁵

Following receipt of this information, we asked Community Services for more detailed advice about the number of established positions that are vacant in each of the above four CSCs, together with the number of risk of significant harm reports received and how these reports were responded to, during the period 24 January to 31 March 2010.⁶⁶

62 NSW Ombudsman, *Submission to NSW Special Commission of Inquiry into Child Protection Services (Part 9)*, June 2008.

63 NSW Ombudsman, *Submission to NSW Special Commission of Inquiry into Child Protection Services (Part 9)*, June 2008.

64 NSW Ombudsman, *Keep Them Safe? Special report to Parliament*, August 2011.

65 Advice provided to this office by Community Services, 22 June 2011.

66 Including the number closed due to 'competing priorities'; the number of assessments undertaken; and the number of children allocated a casework response. We also asked for this information to be broken down into the following age groups: 0-5 years, 6-9 years, 10-14 years, and 15-17 years. We issued a requirement to Community Services to provide this data on 18 July 2011 and we received its response on 16 August 2011.

Together, the four CSCs received 941 risk of significant harm reports relating to 578 children.⁶⁷ Of these reports, a total of 305 – or 32% – were closed due to ‘competing priorities’.⁶⁸ This closure rate is higher than the overall state-wide average rate of 25%.⁶⁹ However, the 32% closure rate is even more concerning when it is examined in the context of the actual number of children who were the subject of the reports and who did not receive any substantive assessment by a CSC.⁷⁰ Using this measure, the ‘competing priorities’ closure rate rises to 44% (253 out of 578 children) – this is close to double the state-wide average of 24%.⁷¹

As the capacity profile below illustrates, the staffing shortages in four of the most high-need, remote locations in Western NSW must be addressed.

Profile: Staffing capacity in four CSCs in Western NSW

Walgett

Walgett is a federal Remote Service Delivery site. Walgett CSC has a staffing establishment of seven positions.⁷² One of the two Casework Manager positions and one of the three Caseworker positions are vacant. In addition to servicing the Walgett area, the CSC provides a ‘satellite CSC service’ to the Brewarrina community. (There is also a shopfront CSC in Brewarrina). However, the two additional Caseworker positions allocated from Walgett to Brewarrina are also vacant.

Walgett CSC received 383 reports, involving 260 children, during the relevant period. Of these reports, 158 (relating to 133 children) were closed due to competing priorities and 79 (involving 44 children) received a comprehensive assessment including face-to-face contact.⁷³ This means that 51% of the children who were the subject of these reports did not receive any assessment in connection with these reports. Only 17% received a face-to-face contact.

Brewarrina

Brewarrina is a ‘shopfront’ CSC with a staffing establishment of seven positions⁷⁴ – four of these positions are vacant.

Brewarrina CSC received 80 reports, involving 58 children, during the relevant period. Of these reports, 44 (relating to 34 children) were closed due to competing priorities and 14 (involving 10 children) received a comprehensive assessment including face-to-face contact. This means that 59% of the children who were the subject of these reports did not receive any assessment in connection with these reports. Only 17% received a face-to-face contact.

Cobar

Cobar CSC has a staffing establishment of five positions⁷⁵ – one of the Caseworker positions is currently attached to Bourke and is vacant, the other is being filled temporarily. The administration position is also vacant.

Cobar CSC received 70 reports, involving 51 children, during the relevant period. Of these reports, 33 (relating to 29 children) were closed due to competing priorities and 11 (involving 5 children) received a comprehensive assessment including face-to-face contact. This means that 57% of the children who were the subject of these reports did not receive any assessment in connection with these reports. Only 10% received a face-to-face contact.

Bourke

67 Certain children were the subject of more than one report.

68 Community Services Case closure policy specifies that in principle, all reports which reach a CSC or Joint Investigation Response Team should receive a comprehensive safety and risk assessment. The policy does, however, allow for reports to be closed at any time because the CSC has insufficient resources. The basis for closing cases in these circumstances is the level and immediacy of risk to a particular child in comparison to the level and immediacy of risk to the other reported children in the context of the CSC’s capacity to respond. Our work illustrates that a matter can be closed regardless of whether the information at the time indicates that a child may be at risk of serious harm.

69 NSW Ombudsman, *Keep Them Safe?* Special report to Parliament, August 2011, p.5.

70 It is possible that the child may have been the subject of some other report that did receive an initial and/or secondary assessment however the data provided did not identify specific children.

71 NSW Ombudsman, *Keep Them Safe?* Special report to Parliament, August 2011, p.5.

72 This includes two Casework managers, three Child Protection Caseworkers, and one Early Intervention Caseworker but not the three Safe Families positions.

73 A comprehensive assessment, which may also involve discussions with other agencies and obtaining information from other sources, is the second stage of the assessment process.

74 This includes a Senior Customer Service Officer and four Caseworkers covering carer support, early intervention, out-of-home care and child protection but not the two Caseworker positions (Child Protection) “servicing Brewarrina” from Walgett nor the three Safe Families positions.

75 This includes two Child Protection Caseworkers, one Early Intervention Caseworker, and one Out-of-Home-Care Caseworker (at Bourke), and a Senior Customer Service Officer.

Bourke CSC has a staffing establishment of nine positions⁷⁶ – of these, the Manager Client Services and one Caseworker position are substantively vacant, with both positions being temporarily filled. However, there are additional temporary vacancies. Community Services also has four positions attached to the Bourke Joint Investigation Response Team. Of these, two of the three Caseworker positions are vacant. Bourke Intensive Family Based Service has seven positions (one temporary); two Caseworker positions and the Casework Manager position remain vacant, although the Manager position is being filled on a temporary basis.

Bourke CSC received 408 reports, involving 209 children, during the relevant period. Of these reports, 70 (relating to 57 children) were closed due to competing priorities and 156 (involving 57 children) received a comprehensive assessment including face-to-face contact. This means that 27% of the children who were the subject of these reports did not receive any assessment in connection with these reports. Twenty seven (27%) received a face-to-face contact.

The serious consequences that can arise from Community Services' lack of capacity to respond to children at significant risk of harm are illustrated by case study 1.

Case study 1

Six siblings, with extensive child protection histories dating back to mid 1998, were removed from their parents by police in late 2008 after being found at home without any adult supervision. The children were placed into the care of a relative and her partner. Six months later, an external agency was contracted to conduct an assessment of the care arrangements and the relative was approved as a carer for all six children. The final care order was made in mid 2009.

Since being placed with the relative, more than 20 reports have been made to Community Services about issues such as inadequate supervision, drug and alcohol use in the home, the children's poor attendance at school and the escalating criminal activities of two of the older children aged 13 and 10. The two children have over 340 police contacts between them, including incidents of stealing, break and enter, assault, trespassing, malicious damage and in the case of the 13 year old, aggravated sexual assault (he is now in the custody of Juvenile Justice). One report indicated that without 'targeted intervention the children are at risk from entering a life of crime'.

In October 2010 a further assessment of the children's care circumstances was conducted by an external agency. This assessment recommended that the relative and her partner should not be authorised to care for three of the children because of their limited parenting capacity, and an inability to provide a safe and nurturing environment to all six children. Specific issues raised in the assessment included that:

- The sexual offending and current behaviours of the 13 year old indicate he may be a risk to other children.
- The carer has a limited capacity to adequately supervise the 10 year old, maintain boundaries and provide him with a protective and supportive environment.
- One of the children (aged 4) is in an extremely high risk category given his lack of supervision, and reports of him being out on the streets with inadequate clothing.
- All of the children have varying stages of tooth decay and should see a dentist regularly.
- The children should receive counseling when and where possible.

Despite these issues, records indicate that little casework has been undertaken since the assessment in October 2010, and the children remain in the care of the relative and her partner. We recently raised our concerns about this matter with Community Services. It advised that the children's individual situations have now been assessed, revealing that "strengths in parenting progress for some of the siblings sit alongside the risks identified by the Ombudsman review". The family is now receiving active case management and will be referred to the Intensive Family Based Service so that support can be offered over the longer term. We will review the action taken by Community Services in relation to these children.

As we have emphasised throughout this report, without data to inform decision making there is a danger that the true extent of the problems that exist in many disadvantaged Aboriginal communities will remain obscured. In this regard, we note that the *National Framework for Protecting Australia's Children* commits all states and territories to better data collection in relation to child protection measures. As the most recent report on *Overcoming Indigenous Disadvantage* pointed out, aggregate data "provides little information on the experience, pathways and outcomes

⁷⁶ This includes a Client Services Manager, two Casework Managers, a Senior Customer Service Officer, a Service Support Manager, two Child Protection Caseworkers, one Early Intervention Caseworker, and one Out-of-Home-care Caseworker, but excludes the four Safe Families positions and the Casework Specialist position.

of the children and young people who receive child protection services".⁷⁷ The importance of disaggregated data in providing an accurate picture of the child protection response to children at risk of significant harm is well depicted in the capacity profile. In Chapter 7, we discuss the need for better data collection and reporting in relation to a broader range of areas relevant to addressing Aboriginal disadvantage.

4.1.1. Habitual non-attendance at school

We have identified that, despite it being a specific ground for making a child protection report, habitual non-attendance at school is a particular risk factor that is too often failing to trigger an adequate response from Community Services due to its compromised capacity.⁷⁸ As we discuss in greater detail in the chapter about investing in education, failure to regularly attend school significantly impacts on a child's overall development and wellbeing, places their safety at risk, and increases the level of disadvantage that they are likely to experience in later life. Our Bourke and Brewarrina report specifically recommended the development of a comprehensive strategy to address the failure to adequately respond to those children and young people living in high risk environments who are often engaged in serious anti-social behaviour and/or are disengaged from the school system.

In our more recent report, *Keep Them Safe?*,⁷⁹ we again flagged our concern about educational neglect, reporting on data obtained from Community Services which indicates that close to 50% of all reports made about educational neglect are assessed as not meeting the 'at-risk of significant harm' threshold, and further, that of those reports assessed as meeting the threshold, another 50% are closed on the basis of 'competing priorities'. This means that fewer than 10% of all educational neglect reports (compared with 21% of reports overall) that are assessed as meeting the reporting threshold, result in a comprehensive assessment involving face-to-face contact.⁸⁰

The case study below presents an example of Community Services' failure to respond adequately to concerns about educational neglect repeatedly reported by a local school, and accompanied by other reports by police about their concerns for the wellbeing of the children in question. It also illustrates Community Services' lack of capacity to allocate all high priority matters for assessment and intervention.

Case study 2

Two siblings, aged 9 and 12, came to our attention as a result of their frequent contact with local police and poor attendance at school. Over a nine year period, the two children have been the subject of more than 30 reports to Community Services. Many reports relate to domestic violence, carer drug abuse, suicide risk for child, inadequate supervision for age, and risk of physical and sexual harm.

The children's parents are well known to police and have numerous convictions in relation to assault and violent disorder offences. Police hold significant intelligence in relation to the use of alcohol by both parents and the father engaging in the supply and sale of drugs. The father has also breached several AVOs. Despite this, the children lived with their parents until late 2010, when they moved in with their grandmother, whose household is well known to police, primarily in relation to family violence. This was an informal family arrangement.

Both children have a record of very poor school attendance. The older sibling had unexplained absences for 35 days in 2009. In August 2010, a risk of significant harm (ROSH) report was made to Community Services about inadequate supervision of the child and habitual non-attendance. The matter was closed by Community Services due to 'competing priorities'.

A subsequent report of 68 days of absence was made to the Community Services in December 2010. This was recorded as not meeting the ROSH threshold because "*whilst information suggests that [the child] has missed significant days to meet the ROSH threshold, no other information provided to indicate what measures have been taken to address [the child's] school absenteeism hence does not meet the educational neglect criteria*".

The younger sibling had 25 days of unexplained absences in 2009, increasing to 55 unexplained absences in 2010. A report to Community Services in December 2010 was 'screened out' as not meeting the ROSH

77 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011. p.4.141.

78 Prior to *Keep Them Safe*, habitual non-attendance was not specified in the *Children and Young Persons (Care and Protection) Act 1998* as a specific ground for reporting to Community Services. Our submission to the Wood Inquiry recommended that this be considered and the Inquiry recommended legislative amendment, which was subsequently enacted. The *NSW Online Mandatory Reporter Guide (in the section Education – habitual absence)* defines 'habitually absent' as "a minimum of 30 days absence within the past 100 school days. However this is context/age dependent".

79 *NSW Ombudsman, Keep Them Safe?* Special report to Parliament, August 2011.

80 *NSW Ombudsman, Keep Them Safe?* Special report to Parliament, August 2011, p.16.

threshold because [it is] “*unknown if there have been repeated interventions by school officials that have exhausted all avenues including referral to HSL0, phone calls to parents and meetings*”.⁸¹

Late in 2010, a further report was received about the children’s living circumstances with their grandmother. As a result of one of these reports, Community Services Helpline observed that: “*something is seriously wrong in this household... This and previous records do not appear to indicate if there are any other reliable and supportive adults in the family... [the] situation can only lead to criminal activities so [the child] can meet [his/ her] own needs*”.

We recently referred this case to Community Services for assessment on the basis of our concerns about the children’s living arrangements and ongoing exposure to harm. Community Services told us that on the basis of staffing shortages and competing priorities, it had so far been unable to allocate the case. Following our intervention, Community Services has advised that an interagency case discussion is being organised to identify whether other service providers might be able to assist the family. We will review the adequacy of the action taken by Community Services to address our concerns about the welfare of all of the children.

Since releasing our *Keep Them Safe?* report in August, Community Services has advised us that together with its interagency partners, the Department of Education and Communities (DEC) and the non-government school sector, it will consider how best to address chronic educational neglect. In this regard, changes will be made to better align the reporting criteria in the Structured Decision Making Mandatory Reporting Guide and the Screening Assessment Tool used by the Child Protection Helpline. The following changes have also been made to screening and allocation decisions to improve responses to reports of chronic school absence:

- When a report is made to the Helpline where educational neglect is the sole reported issue, it will be screened out if DEC has not done everything within its powers, up to and including, court action.
- When a report is made to the Helpline where educational neglect is one issue among several, if it reaches the risk of significant harm threshold on the basis of overall risk, the fact that DEC could take more action in relation to educational neglect, will not lead to the report being ‘screened out’.⁸²

The Directors General of FACS and DEC will also meet shortly to examine other ways to improve responses to chronic school absence which indicates a risk of significant harm to a child. We will continue to closely monitor progress on this issue.

4.2. Broader impacts of staffing shortages in high need locations

The service capacity shortcomings which exist in Western NSW as a result of chronic staffing shortages impact on a number of areas of need. The following examples are illustrative of this:

4.2.1. The Safe Families program

Safe Families is the flagship program in NSW aimed at reducing Aboriginal child sexual assault by working with Aboriginal communities to provide early intervention and prevention services; enhanced child protection responses; and targeted community development. The program commenced in 2009 and was intended to operate in five high need locations in Western NSW: Wilcannia, Bourke, Brewarrina, Lightning Ridge and Walgett.

An independent evaluation of Safe Families was completed in mid 2011 and provided to the program’s partner agencies – the Office of Aboriginal Affairs (OAA), Community Services, and NSW Health. As part of our audit of the implementation of the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*, we have also examined the program.

Consistent with the main finding of the independent evaluation, we were concerned about the lack of evidence of any substantial results from the Safe Families program. At the time of writing this report – more than two and a half years into its commencement – the program was operational in only two of the five proposed locations. OAA staff have been in place in all locations since October 2010.

Information provided to us by the partner agencies around the middle of this year, indicated that a total of six families in Wilcannia and two families in Lightning Ridge had received case management. This is of significant concern given that Safe Families was provided funding of \$22.9 million, and is now entering its final year of operation.

A number of factors have undermined the effective implementation of the program. From the outset, it was a ‘reactive’ initiative that was announced and developed without any genuine consultation with Aboriginal leaders and

81 The only information contained in the report to the Helpline was that the child had 55 unexplained absences.

82 Information provided by Community Services on 23 September 2011.

target communities, or adequate consideration of how the program would operate in the context of existing services in those communities.

In this regard, it was essentially overlaid onto a child protection system that was – and remains – fundamentally compromised in Western NSW by a limited capacity to respond to the most at-risk children due to chronic staffing shortages experienced by both partner agencies but particularly, Community Services. The design of Safe Families did not adequately take this into account. Instead, the program's focus was on early intervention and prevention and was targeted at working with those families whose circumstances do not meet the 'at risk of significant harm' threshold for a statutory child protection response. Ironically, the program effectively excluded the very children and young people most in need of a child protection response, including those at risk of sexual harm. In saying this, we also recognise that the role of OAA in the Safe Families sites was principally focused on community development and building leadership.

Perhaps the most significant problem in effectively implementing Safe Families has been the difficulty encountered in attempting to establish and operate a multiagency program in the absence of adequate accountability mechanisms. OAA is the agency responsible for coordinating Safe Families. Traditionally, it has not been responsible for service delivery. It did not receive additional funding to carry out its coordination role, and in doing so, has been impeded by an inability at both a corporate and local level to exert sufficient leverage over the other partner agencies – particularly in relation to the issue of staff recruitment.

Many of these problems were recognised prior to the independent evaluation (and our review) by the current General Manager of OAA, who commenced his role after the design and initial roll out of Safe Families. For some time, he has been active in raising concerns with the other partner agencies about the inability to address staffing shortages, not only in relation to Safe Families itself, but also in the broader service system in the five program locations.

In light of the evaluation, the partner agencies have reviewed the ongoing role of Safe Families. To inform the review, in July 2011 we conveyed our concerns to the Safe Families partner agencies and their relevant Ministers. We encouraged the agencies to finalise the review as a matter of urgency.

We suggested that the casework resources allocated to the Safe Families program would be more beneficially deployed towards the provision of core child protection, clinical and therapeutic responses to those children most at risk, as well as those children and families who would benefit most from earlier intervention. We also support exploring the scope for expanding the capacity of the NGO sector in the Safe Families sites to carry out work with families to provide practical supports and link them with interventions.

We were recently advised by the General Manager of OAA that the program's partner agencies have acknowledged that their failure to recruit suitably qualified staff has fundamentally compromised the program's implementation. As a result, they have now committed to realigning the program and its existing resources. Given the concerns we raised about the limited capacity of Community Services to respond to reported cases of children and young people at risk of significant harm, OAA has developed a proposal which involves redeploying the Community Services resources attached to Safe Families to local CSCs to assist them to meet their core caseload, and drawing on the expertise of the NGO sector to provide supports to at-risk children and their families (including those who have been identified as being at risk of significant harm). NSW Health has also committed to providing a 'fly-in' service from the nearest larger centre where local staff are able to be recruited in circumstances where clinical and/or therapeutic intervention is required – however, the threshold for this response is yet to be worked through.

Consistent with our recommendations for an intelligence-driven approach to child protection to be adopted, OAA has also indicated that it proposes to establish government agency and NGO panels in the five locations to collectively identify the families most at risk based on each organisation's information holdings. One agency will be selected to lead the case management for individual families. There is potential for this work to be supported by the Family Referral Service in Dubbo.

While we acknowledge the potential merits of these proposals,⁸³ we are concerned that they are being developed in the absence of a well formulated overarching plan that not only seeks to improve response capacity to crises, but also focuses on systematically targeting the drivers of endemic dysfunction within communities.

⁸³ The implementation of the proposals developed by OAA is contingent on the continuation of funding until the end of December 2012.

4.2.2. Providing access to forensic medical examinations for children in remote locations who have been sexually assaulted

During our consultations in Western NSW as part of our audit of the implementation of the *Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*, the limited availability of suitably qualified health practitioners to undertake forensic examinations of child sexual assault victims has been repeatedly raised with us.

Both community members and agency staff have expressed concern about the distances that victims living in remote areas have to travel in order to be examined, and the potential for this to compound their trauma, compromise the quality of the physical evidence eventually collected and act as a significant disincentive to reporting sexual assault.

For children in remote communities who are victims of sexual assault, access to forensic medical examination can be a particularly arduous process. Our consultations, especially with police, have indicated that a significant proportion of child sexual assault victims are younger than 16 years of age. However, only a suitably qualified practitioner⁸⁴ – generally, a paediatrician – may perform a forensic examination on a child under the age of 16 years. A Sexual Assault Nurse Examiner (SANE) may examine a young person aged between 14-16 years, but only when the alleged offender is not a caregiver or parent of the young person.

Concerns about access to forensic examinations in remote areas are not new. Although they have been expressed for a number of years and various solutions have been proposed, nothing has been implemented to adequately resolve the problem.

In June last year, we convened a meeting with the Deputy-Director General of NSW Health, the Police Commissioner, and the CEOs of AA NSW and Community Services, to explore a range of options for improving access to forensic medical services in rural and remote locations.

As a result of this meeting, we agreed to explore possible solutions with the Walgett Aboriginal Medical Service (WAMS), a general practitioner from Walgett, the Outback Division of General Practitioners in Bourke and representatives of the former Greater Western Area Health Service (GWAHS). As a result of these discussions, it was agreed that GWAHS, in partnership with the WAMS, would work towards the establishment of a pilot forensic assessment triage service in Walgett. GWAHS subsequently established the Walgett Assessment Service which comprises a 24 hour roster of local professionals, including Aboriginal Medical Service staff and nurses from the Walgett Health Service. The Assessment Service provides victims of sexual assault initial information and support, and contacts the closest 24 hour sexual assault service to ascertain whether a forensic medical examination is required, and if so, make travel arrangements.

Given the significance of this issue of access to forensic medical examinations, the Police Commissioner has made it a standing agenda item at the NSW Police Force Aboriginal Strategic Advisory Committee (PASAC) meetings.⁸⁵ In April 2011 we also required NSW Health to provide us with an initial briefing about how it has progressed a suite of proposals aimed at expanding the availability of forensic medical services for child victims of sexual assault in remote locations. We received a detailed response in late June, which we are currently reviewing. However, it is clearly unacceptable for this state to argue that it is responding to the issue of child sexual assault, while it fails to provide abused children in more remote areas, with the necessary forensic medical services.

4.2.3. Addressing rural and remote recruitment and retention

As we have already observed, we have been drawing attention to the need to address workforce capacity issues in disadvantaged rural and remote locations for some time. Our Bourke and Brewarrina report outlines in some detail the various proposals that have been put forward by government agencies over a number of years in this respect. Notwithstanding that key agencies such as the NSW Police Force have had considerable success in attracting and retaining suitably qualified staff,⁸⁶ many critical positions in the human services field have not been filled. To address this issue, there is a need to roll out a rural and remote employment strategy that maximises the training and recruitment of local community people and is complemented by incentive packages that will attract sufficient

84 Formal advice received from NSW Health in June 2011 is that such practitioners may include paediatricians, paediatric registrars, Sexual Assault Forensic Medical Officers (GPs) with paediatric privileges, and senior staff specialists in sexual health.

85 NSW Health advised that it had recently written to the Police Commissioner indicating that the Forensic Interagency Meeting chaired by the Department of Premier and Cabinet was a more appropriate forum for a standing item on forensic medical examinations for sexual assault victims rather than the PASAC, due to the high level of delegation required to resolve interagency issues. NSW Health is awaiting advice on this issue from the Police Commissioner. Advice provided by NSW Health, 26 September 2011. In our view, while we agree that the committee chaired by the Department of Premier and Cabinet may now be a better forum to progress issues relating to forensic medical examinations, its existence does not preclude the issue remaining a standing item on the agenda of PASAC meetings. Advice provided by NSW Health, 26 September 2011.

86 NSWPF offers generous incentives to attract staff to high-need locations in rural and remote parts of the state.

numbers of high quality staff to these locations.⁸⁷ In fact, we have been pushing this agenda for a number of years. We have been advised of various proposed initiatives relevant to this issue, but none have come to fruition.

For example, prior to the Wood Inquiry reporting its findings, we received advice from Community Services that a whole-of-government approach (involving NSW Health, Community Services, (the then) Department of Education and Training and the NSW Police Force) to address human services delivery in rural and remote areas of NSW was being developed. The approach was to be led by a steering committee on delivering human services and was to encompass:

- new service delivery 'hub' models
- uniform NSW public service incentives
- government employee accommodation, and
- staff education, training and government assistance.

As our Bourke and Brewarrina report noted, improving service delivery in regional and remote communities through workforce strategies and broader agency capacity building was a focus of the Wood Inquiry, and also a priority area for *Keep Them Safe*. In line with the Inquiry's recommendation that it do so,⁸⁸ the former government engaged a consultant to develop workforce and non government organisation (NGO) capacity building plans to support the implementation of *Keep Them Safe*.⁸⁹ As we discussed in our Bourke and Brewarrina report, the final *Keep Them Safe* Workforce Development and NGO Capacity Building Plan was released in November 2010, and is generally limited to NGOs involved in the delivery of services and supports to children and their families. The plan, which will be implemented over five years, also does not currently incorporate a specific service delivery model for the Western region.

In response, our Bourke and Brewarrina report recommended that the Department of Premier and Cabinet, together with human service and justice agencies, develop a comprehensive recruitment and retention strategy for disadvantaged rural and remote locations. In making this recommendation, we emphasised that the strategy should identify clear targets and include a rigorous monitoring and reporting framework. We are yet to receive advice concerning this recommendation.

Furthermore, in our recent report to Parliament about *Keep Them Safe*, we noted that Community Services has put forward an action plan to improve its capacity to respond to children and young people at risk of significant harm. The plan includes a commitment to increase recruitment to vacant caseworker positions, with the aim of achieving a full complement of staff by January 2012. In advising us of the plan, Community Services has stated that improvements will be made to its recruitment process, "including in rural and regional NSW".⁹⁰

While we are not questioning the genuineness of this most recent commitment, the evidence shows that the various previous initiatives to address staffing shortages have not delivered real results. For this reason, in our *Keep Them Safe* report we noted the need to develop proposals for setting average caseload and completion targets; enhancing caseworker supervision and support; and lifting staff morale in rural and remote locations. In addition, we recommended that Community Services provide public advice on its proposals for ongoing and meaningful reporting of the outcomes achieved from its action plan to improve capacity, and regional breakdowns of the number of filled positions against its staffing establishment. We further recommended that within six months, the Department of Premier and Cabinet, FACS and other human service and justice agencies should make public the action proposed in relation to the critical staffing shortages that exist in Western NSW.

Clearly, as our discussion in 4.2.2 about access to forensic examinations for child sexual assault victims demonstrates, Community Services is not the only agency or organisation whose capacity to provide frontline services is significantly compromised by workforce challenges. Moreover, given the need to provide a genuinely integrated service system in high need rural and remote locations (which we discuss further in Chapter 7), it is critical that a comprehensive, whole of government workforce strategy is finalised as soon as possible to strengthen the service system particularly in disadvantaged rural and remote locations.

87 Community Services advised that it is experiencing some initial success with a new Western recruitment strategy which focuses on the recruitment of local people through targeted advertising and information sessions. Advice provided by Community Services, 23 September 2011.

88 Honourable James Wood AO QC, *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, November 2008, Recommendation 10.8.

89 KPMG, *A Shared Approach to Child Wellbeing: A plan for building the capacity of non-government organisations (NGOs) to take an extended role in service delivery and for developing the workforce*, 2010.

90 NSW Ombudsman, *Keep Them Safe? Special report to Parliament*, August 2011, pp.7-9.

4.3. Shared responsibility for protecting children

Keep Them Safe emphasises that protecting children is a shared responsibility. This principle informs the reforms that were introduced in January 2010, including the establishment of Child Wellbeing Units within the NSW Police Force, NSW Health, the Department of Education and Communities and the Department of Family and Community Services; the trialling of NGO-operated Family Referral Services;⁹¹ and the introduction of Family Case Management.⁹² Our recent report *Keep Them Safe?* also acknowledged the current trial of a new intake model that involves Community Services facilitating early interagency case meetings in relation to high risk areas which cannot be allocated for response by Community Services due to resource constraints.⁹³

4.3.1. An intelligence-driven approach to identifying the most vulnerable children

For a number of years, we have been arguing that an efficient child protection system must be able to identify those children who are most in need, and that this requires the development of an 'intelligence-driven' approach to child protection practice.

While Community Services has the capacity to aggregate data at a local level in order to identify their most frequently encountered families, it is apparent to us that this process is not being systematically utilised. Moreover, to be effective, an intelligence-driven approach cannot be implemented by Community Services alone – it must involve key agencies working together to systematically identify, share, analyse, prioritise and act on information they hold that raises concerns about serious child protection risks. This is even more urgent in high need locations with very limited resources. Our Bourke and Brewarrina report explained this approach in more detail, and our report *Keep Them Safe?* also strongly emphasises the need for it.

It is worth noting that one advantage of respected Aboriginal leaders are ideally placed to provide critical information to help better inform the intelligence which is gathered about vulnerable children and their families. However, as we discuss in section 4.3.3 of this report, utilising Aboriginal leaders in this way would require formally bringing them into the child protection consultative process.

4.3.2. Developing effective interagency approaches

Over several years, various interagency models have been trialled in different parts of the state in an attempt to better respond to children and families with complex needs. One of the most significant of these has been the Antisocial Behaviour (ASB) multiagency case management model, which originally began as 'integrated case management' (ICM) in Dubbo at the initiative of local police. Leadership of the Dubbo model was transferred to Community Services. The model was subsequently 'rebadged' and transferred to the Department of Premier and Cabinet. It was then rolled out in a number of additional locations. The model is currently known as 'Supporting Children, Supporting Families', and it has recently been transferred again – this time to the Department of Family and Community Services. While our initial observations of the Dubbo ICM were positive, the feedback we have received about the subsequent ASB model from agency staff has not been encouraging. While we are aware that the model has been evaluated, the results are not public and it is therefore unclear what practical outcomes it has achieved since it was established six years ago.

Similarly, while very promising in theory, the practical outcomes of the Family Case Management model that is being rolled out as part of *Keep Them Safe* is yet to be determined. However, as noted in our report *Keep Them Safe?*, we have received advice that an interim evaluation of the FCM pilot has (not surprisingly) highlighted the need for a more efficient, systematic way of identifying families in need of case management. We would argue that this supports our repeated calls for an intelligence driven child protection system.

91 Family Referral Services assist children and young people who do not meet the statutory threshold for child protection intervention but would benefit from accessing support to address current problems and prevent escalation. FRS provide information and link vulnerable children young people and their families to a range of support services in their local areas. FRS are delivered by NGOs and are currently operating in Western NSW, Hunter/Central Coast, Mt Druitt, Illawarra and New England/North West (www.health.nsw.gov.au. Accessed 7 September 2011).

92 Family Case Management (FCM) is an integrated case management response to families who frequently come into contact with multiple government agencies and NGOs and who show little improvement in their situations. FCM is running in eight sites in three regions: South West Sydney, South East NSW, and Western NSW. FCM is supported by coordinators in each region (www.keepthemsafe.nsw.gov.au. Accessed 7 September 2011).

93 NSW Ombudsman, *Keep Them Safe?* Special report to Parliament, August 2011. pp.14-15.

4.3.3. Enhancing the role of community

For some time, Aboriginal community members have been central to the success of innovative, criminal justice diversionary processes such as circle sentencing, youth cautioning and providing support to people in custody. While there is room for more involvement of Aboriginal people in this area, increasingly Aboriginal leaders are calling for greater involvement of recognised community members in decision-making approaches around the care and protection of children, including children who fail to regularly attend school. One way to achieve this would be through establishing mechanisms which formalise the role of local community leaders in decision-making processes relating to vulnerable children and their families.

Despite the fact that the *Children and Young Persons (Care and Protection) Act 1998* (CYPCPA) requires Aboriginal and Torres Strait Islander people to be given the opportunity to participate in the care and protection of their children and young people with as much self-determination as possible, on a practical level, many community leaders with standing are not consulted about such decisions.⁹⁴

Across the country, different community consultation models have evolved over time around Australia in an attempt to provide Aboriginal people with more effective involvement in decision-making around the care and protection of Aboriginal children.⁹⁵ The Wood Inquiry drew heavily on the Lakidjeka⁹⁶ model from Victoria in recommending that NSW develop a consultation model to give an Aboriginal perspective on the best ways of keeping Aboriginal children and young people safe. The Inquiry recommended that:

*'The NSW Government should develop a strategy to build capacity in Aboriginal organisations to enable one or more to take on a role similar to that of the Lakidjeka Aboriginal Child Specialist Advice and Support Service, that is, to act as advisers to DoCS⁹⁷ in all facets of child protection work including assessment, case planning, case meetings, home visits, attending court, placing Aboriginal children and young persons in out-of-home care and making restoration decisions.'*⁹⁸

The recommendation was adopted by the former government and has been implemented to date through a partnership between Community Services and the Aboriginal and Family Child Secretariat to pilot the Protecting Aboriginal Children Together (PACT) initiative, which commenced in early 2011. The PACT pilot will operate for three years in three locations. Their role is to provide expert cultural advice to Community Services on reports of abuse and/or neglect involving Aboriginal children, and at all significant stages of case management for child protection and out-of-home care interventions.⁹⁹ Pius X Aboriginal Corporation in Moree has recently been announced as one of the pilot sites. The other sites will be located in the Illawarra and metropolitan Sydney.

Although the PACT pilot is a positive initiative, it is limited to three sites and it will be some time before the outcomes are evaluated. In addition, the PACT focuses on involving Aboriginal organisations in care and protection decisions. However, it is our experience that respected Aboriginal community leaders often have critical background information about children at risk and their family circumstances. For this reason, we believe that these leaders should also be involved in a practical way in making important decisions about the future of children and families within their communities. While the recent introduction of Chapter 16A of the CYPCPA allows for information to be exchanged between 'prescribed' organisations about a child's safety, welfare or wellbeing, it does not extend to individual community members. Although this does not prevent consultation with Aboriginal leaders in all circumstances, we believe that there would be merit in providing a legal framework that codifies, in practical terms, how the existing consultation provisions in the Act should be applied. While introducing this kind of consultation process into casework practice would not be without cost, it may be able to be established without having to create a suite of new 'organisational entities'.

For example, in Queensland, the *Child Protection Act 1999* provides the legal framework for Child Safety Services (CSS) to work with Aboriginal and Torres Strait Islander children and their families.¹⁰⁰ The provisions in

⁹⁴ *Children and Young Persons (Care and Protection) Act 1998*, sections 11-14.

⁹⁵ For example, the Nowra Care Circle trial commenced in December 2009. A care circle is an alternate court process that allows all parties involved in a care matter before the NSW Children's Court to come together with respected volunteer members of the Aboriginal community to discuss and propose orders that promote the future safety, welfare and wellbeing of Aboriginal children. The overall aim of the care circle is to increase the participation of Aboriginal people in decision making about Aboriginal children. It is also designed to make the court process less intimidating, and through the influence of care circle members, encourage parents to comply with undertakings. The 2010 evaluation of the trial was positive and a number of additional potential sites have since been identified. The next trial location will be Lismore which is due to commence in November 2011 (Advice provided by the Department of Family and Community Services, 29 September 2011).

⁹⁶ Lakidjeka Aboriginal Child Specialist Advice and Support Service is a non-government service based in Victoria.

⁹⁷ At the time of the Wood Inquiry, 'Community Services' was known as the Department of Community Services (DoCS).

⁹⁸ Honourable James Wood AO QC, *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, November 2008, Recommendation 8.5.

⁹⁹ NSW Department of Family and Community Services, *Aboriginal Consultation Guide*, June 2011, p.48.

¹⁰⁰ The Act requires that a 'recognised entity' – often an Aboriginal and/or Torres Strait Islander children's service provider – be given the opportunity to participate in decisions that will have a significant impact on the child's life.

the Queensland legislation around consultation are similar to those in NSW. However, the Act recognises that a 'recognised entity' can be also an individual who is Aboriginal or Torres Strait Islander.¹⁰¹

The two primary functions of the recognised entity are to contribute to decision-making processes about Aboriginal and Torres Strait Islander children made by CSS and to support and provide information to families to help them understand the reason for the actions taken and the child protection process. In order to work effectively, it is critical that entities have strong links to community, family and clan groups.¹⁰² If similar legislation was adopted in NSW, it would allow recognised community bodies and individuals to be considered for 'prescribed body' or 'recognised entity' status.

To complement this, recognised community members could also play a community conferencing type role. A similar function is already in existence in Queensland as part of the Family Responsibility Commission (FRC) – we outline the FRC model and the responsibilities of local Aboriginal Commissioners in detail at Appendix 1. In recognition that respected community members are often in a stronger position than professional agency staff to exert a positive influence on vulnerable children and their families, the FRC Commissioners conduct conferences with families who are the subject of notifications about child safety, school non-attendance, tenancy breaches and certain criminal convictions. The FRC Commissioners refer families who come before the Commission to a range of supports before income management sanctions are applied. As outlined in section 5.3.2 where we discuss strategies to improve school attendance, the Commissioners' role is also supported by intensive work carried out by attendance case managers who visit families each day to ascertain why their children have not attended school. Once a child has failed to attend school on three occasions, the family is referred to the FRC.

If a community conferencing approach were adopted in NSW, families referred to a 'community panel' could be linked with appropriate supports and services before more formal action is taken, such as steps towards court proceedings under the Education Act and/or Children and Young Persons (Care and Protection) Act. Clearly, this approach should only be utilised in situations where there is no risk of significant harm requiring immediate intervention. Establishing community panels could help increase the currently low number of conferences facilitated by region education officers under the Education Act and potentially decrease the number of matters referred to the Local Court and Children's Court for enforcement action.

In our view, for community panels to be effective, their functions and operations should be clearly outlined in legislation. This could occur through amendments to existing child protection and education legislation.

4.4. Better options for high-risk adolescents

Our work has shown that one of the clear and all too frequent consequences of the failure to respond to 'at risk' Aboriginal children and young people by intervening early to provide effective interagency case management is their subsequent contact with the criminal justice system. In 2007 BOCSAR noted that there is a "strong argument for early intervention to reduce the risk of juvenile recidivism."¹⁰³ In response to comments we made in our 2009-2010 annual report about the high number of Aboriginal young people from Western NSW in juvenile detention, the President of the Children's Court, His Honour Judge Marien, also endorsed the importance of "intervening earlier" to address "the underlying causes of juvenile offending."¹⁰⁴

More recently, commenting on the operation of the juvenile justice system in NSW, the NSW Attorney General demonstrated clear support for ensuring juveniles have access to support and services before they become entrenched in the criminal justice system. Noting the finding of the most recent Young People in Custody Health Study that young offenders have high levels of mental illness, intellectual disability, drug and alcohol abuse, poor physical health, and multiple areas of social disadvantage, the Attorney General stated:

*'I understand the importance of early intervention to turn around the lives of young offenders... If these offenders had access to effective services when they first came into contact with the justice system, or even before, a number of subsequent offences may have been avoided... intervening early with vulnerable young people provides long term social and financial benefits, including improved life outcomes for these individuals as well as their families and the broader community.'*¹⁰⁵

101 who has appropriate knowledge of, or experience in, child protection; and who is not an officer or employee of CSS or an entity that has a function to provide services to Aboriginal and Torres Strait Islander people.

102 Queensland Government, Child Safety Services, *Child Safety Practice Manual - Recognised entities*, 2010.

103 Weatherburn, D., Cush, R. & Saunders, P., *Screening juvenile offenders for further assessment and intervention. Crime and Justice Bulletin 109*, NSW Bureau of Crime Statistics and Research, 2007. p. 1.

104 Marien, Mark, SC, 'Helping hand, not a heavy one, needed to address juvenile crime', *Sydney Morning Herald*, 29 October 2010.

105 Honourable Greg Smith, MP, Attorney General and Minister for Justice, 'Key issues in juvenile justice'. www.becausechildrenmatter.org.au/juvenile-justice/the-hon-greg-smith-sc-mp-key-issues-in-juvenile-justice. Accessed 13 July 2011.

According to an expenditure analysis commissioned by the Office of Aboriginal Affairs, for the current cohort of ten year old Aboriginal children (3,977) in NSW, the total cost of juvenile and adult justice services throughout their lives (based on current rates of involvement with justice services) is projected to be \$481 million. Halving the gap between Aboriginal and non-Aboriginal children in relation to the rate of engagement with juvenile justice would result in savings of \$238 million over the lifetime of that cohort and closing the gap entirely would result in a saving of \$450 million over their lifetime.¹⁰⁶

Despite apparently widespread acceptance that addressing the high level of Aboriginal young people's involvement with the criminal justice system depends on effective interagency strategies that identify those young people and families at greatest risk, and provide integrated services to them, the lack of capacity in the broader service system – particularly in Western NSW – means that this is often not occurring.

Our report *Keep Them Safe?* identified the need for urgent debate about how agencies might provide a more effective and coordinated child protection response to high risk older children and adolescents. In our view, the key components that are required are:

- Increasing the capacity of service providers to implement early intervention strategies that are targeted, integrated and effective.
- Examining the strengths and weaknesses of existing programs which are designed to keep young people out of juvenile detention, and implementing changes to maximise the effectiveness of their operation.
- Ensuring that there are sufficient and appropriate accommodation options for young people involved in, or at risk of becoming involved in, the criminal justice system.
- Ensuring that serious young offenders are provided with integrated services that address the complex and multifaceted causes of juvenile offending behaviour.

In doing so, it is imperative that local circumstances and needs are taken into account, and that initiatives are targeted at young people at risk of having contact with the criminal justice system as well as those who have had some contact already, but whose offending behaviour is not (yet) serious or extensive, and those who have had significant contact involving serious or extensive criminal behaviour.

Of the components identified above, perhaps those requiring the most urgent attention are the adequate provision of safe accommodation; and ensuring that serious young offenders have access to, and receive, appropriate support services.

4.4.1. The need for safe accommodation options

The recent federal Parliamentary inquiry into Indigenous youth in the criminal justice system highlighted the critical importance of Aboriginal young people having access to a stable, safe and supportive living environment to ensure the establishment of positive social norms and enable them to develop a positive sense of wellbeing and aspirations for the future.

The Inquiry acknowledged that limited safe accommodation options for Aboriginal youth heighten the risk of young people offending and re-offending. It also found that the single biggest factor leading to young Aboriginal people being unable to comply with bail conditions – and therefore ending up in custody – is the lack of appropriate accommodation available to young offenders while they are awaiting sentencing.¹⁰⁷ In NSW, over 50% of young people in detention centres are held on remand, and 85% of admissions to detention centres are remand admissions.¹⁰⁸ The rate of remand among Aboriginal young people is almost 20 times that of non-Aboriginal people.¹⁰⁹

¹⁰⁶ PricewaterhouseCoopers was commissioned by the Office of Aboriginal Affairs to conduct an analysis of the lifetime costs to government of Aboriginal people compared to non-Aboriginal people. Information provided by the Office of Aboriginal Affairs, 20 September 2011.

¹⁰⁷ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, paragraph 7.110, p. 222.

¹⁰⁸ NSW Law Reform Commission, *Bail: Questions for discussion*, June 2011, p. 4.

¹⁰⁹ NSW Department of Human Services, Aboriginal Affairs NSW, *Two Ways Together Report on Indicators 2009*, 2010. p.105.

The Inquiry specifically recommended the need for the Federal Government to ensure all states and territories have an expanded number and range of safe accommodation options for Aboriginal children and young people, including extended family houses, identified safe houses, hostel and school accommodation, foster and respite care, and emergency refuge accommodation.¹¹⁰

In this regard, we note that the Aboriginal Child, Family and Community Care State Secretariat (AbSec) – with the formal endorsement of the Secretariat of National Aboriginal and Islander Child Care and the Coalition of Aboriginal Peak Organisations,¹¹¹ has recently submitted to Family and Community Services (FACS), the Office of Aboriginal Affairs (OAA), the Department of Education and Communities (DEC) and the federal Department of Families, Housing, Community Services and Indigenous Affairs, a proposal to pilot a boarding type facility in a high-need community for local Aboriginal children and young people at risk.¹¹² The approach detailed in the submission is consistent with the approach AbSec advocated during the Special Commission of Inquiry into Child Protection Services in NSW and directly relates to recommendation 18.2.3 in the Inquiry's final report.¹¹³

The proposal involves the establishment of a boarding facility accommodating up to 16 local children between the ages of 7 and 14 years who have been identified by FACS/ DEC/other government agencies and/or local Aboriginal organisations as being 'at risk of entering the out-of-home care system', and who have a poor school attendance and performance record. For a child to be placed in the boarding facility, their parent/s would need to enter into a voluntary agreement which acknowledges that they will seek to address the issues that have placed their child/ren at risk, as well as a demonstrated capacity to address these issues within a designated time frame.

AbSec's submission stresses that unlike historical government policies associated with the former 'Aboriginal Training Homes', its proposal is a "community driven initiative – with the community being fully involved in project design and decision making". AbSec's submission also highlights that "to achieve more sustainable and better outcomes for our children – more 'radical' forms of child protection and educational models need to be explored and developed". The submission recognises the need for careful evaluation of the model. It also recommends that government agencies convene a working party to review, and provide feedback on, the submission and that funding be provided to an Aboriginal organisation in the agreed location to conduct further community scoping and local service development work.

The NSW Special Commission of Inquiry also found that the absence of dedicated bail facilities has resulted in many young people being held in detention unnecessarily for significant amounts of time. This is particularly concerning given that, according to Juvenile Justice, approximately 84% of young people remanded in custody do not go on to receive a custodial order after sentencing.¹¹⁴ In response to the Wood Inquiry's recommendation that an after-hours bail placement service be established for young people who are at risk of being remanded in custody or who require bail accommodation,¹¹⁵ the NSW Government funded a Bail Assistance Line (BAL) for juveniles being held in police custody.

The BAL, which was initially rolled out in Dubbo in June last year and in Newcastle and Western Sydney later in 2010, is designed to assist young people for whom police are considering granting bail, but who cannot meet the conditions of having suitable supervision or a place to reside. In essence, non-government organisations are funded to assist young people to comply with their bail conditions by offering them support for up to 28 days. Services may include locating a parent/guardian, finding suitable accommodation (such as foster care or refuge accommodation), transporting a young person from the police station to the accommodation placement, and referral to counselling, court support and other services.

We have been advised that there have been 165 enquiries to the BAL to date, resulting in 50 placements.¹¹⁶ While Juvenile Justice has informed us that the initiative has led to significant reductions in the number of young people on remand,¹¹⁷ the NSW Police Force has recently advised that use of the BAL by police in Dubbo (an area with one of the highest rates of bail refusal) has been so low that it has recently ceased operation there.¹¹⁸ NSWPF has advised that there were a number of reasons for the low referral rates to BAL in Dubbo, including the broad social issues in the

110 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011.

111 The Stolen Generations Council of NSW/ACT and the Association of Children's Welfare Agencies have also endorsed the proposal.

112 Aboriginal Child, Family and Community Care State Secretariat (AbSec), *Submission: Establishment of Boarding Type Model as an Early Intervention & Family Preservation Strategy (Education and Protection while Preserving Family and Culture)*, 20 July 2011.

113 Recommendation 18.2.3 states 'examine the feasibility of the recommendation to establish boarding type accommodation for Aboriginal children and young people at risk and develop more detailed options for providing care and education for them'.

114 Honourable James Wood AO QC, *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, November 2008, Volume 2, p. 559.

115 Honourable James Wood AO QC, *Report of the Special Commission of Inquiry into Child Protection Services in NSW*, November 2008, Recommendation 15.1.

116 Data provided by Juvenile Justice, Department of Attorney General and Justice to this office, 19 September 2011.

117 NSW Ombudsman, *Annual Report 2009-2010*, 2010, p. 53.

118 Juvenile Justice provided advice on 18 August 2011 that a service involving referral and liaison will continue to be provided.

area and the individual circumstances of juveniles arrested for offences, including: their criminal histories; police fears for the community; and concerns that offenders would not attend court.¹¹⁹ In other words, even in circumstances when young people have adequate accommodation and support (which the BAL is designed to facilitate) other factors may lead to a decision to refuse them bail.

We note that to date, there has been no comprehensive review or evaluation of the BAL program. As part of any evaluation, there should be an examination of the factors influencing the assessment of young offenders' eligibility for the BAL program. In this regard, particular consideration should be given to whether the program is meeting the needs of young offenders with complex problems and/or serious offending histories, who in many instances may be the most in need of intensive or immediate support to prevent further involvement in the criminal justice system. It will also be important to examine whether there is a sufficient range of culturally appropriate placement options,¹²⁰ and whether the duration of supported placements is adequate to allow effective case management to be undertaken with young people and their families. Most critically, any evaluation will need to determine whether sufficient accommodation options are available to support the program.

In this regard, we note that in 2009, UnitingBurnside (supported by a number of other NGOs) recommended the establishment of a Residential Bail Support Program to address the shortage of accommodation options for young people in NSW who remain on remand due to a lack of accommodation options. It was envisaged that such a program would "increase the currently limited accommodation and support options for children and young people in the juvenile justice system and will increase the referral options for the Bail Hotline."¹²¹

In June 2011, "amid concerns about the impact it has on juveniles"¹²² the NSW Attorney General asked the NSW Law Reform Commission to undertake a review of the law of bail. Among other things, the LRC was asked to have regard to whether the Bail Act should make a distinction between young offenders and adults, and if so, what special provisions should apply to young offenders; and whether special provisions should apply to vulnerable people, including Aboriginal people.¹²³ The Law Reform Commission is to report to the Government by November 2011.

4.4.2. Support for serious offenders

The Federal Parliamentary inquiry into Indigenous youth in the criminal justice system noted a number of highly regarded diversionary programs for Aboriginal young people, including the Tirkandi Inaburra Cultural and Development Centre residential program.¹²⁴ This program in the Riverina¹²⁵ aims to strengthen the cultural identity, self-esteem and resilience of Aboriginal boys aged 12 to 15 years, and to reduce their future contact with the criminal justice system. The program caters for up to 16 boys at a time, who stay voluntarily for three to six months. The program involves on-site education, recreation and cultural activities, as well as comprehensive case management and the close involvement of Aboriginal elders. Case planning is used to provide participants with ongoing community and family support after graduating.¹²⁶

However, young people with an established offending profile are not eligible for Tirkandi. This means that some young people who have appeared before a court several times for offences that are not necessarily serious are likely to be excluded from Tirkandi based on the current eligibility criteria. Consideration may need to be given to expanding the program's eligibility to include these young people. The manager of Tirkandi Inaburra has also acknowledged there is need for a facility that can accept high risk young people (including serious/repeat offenders, and those who are disengaged from school), as well as girls and others referred by the courts.¹²⁷

119 Advice provided by NSWPF to this office, 18 August 2011.

120 We note Juvenile Justice's advice that as part of their funding agreements, non-government agencies involved in the pilot of the BAL were required to demonstrate how they identified, recruited and trained Aboriginal and other culturally diverse staff. Link Up Aboriginal Corporation has provided placements and support for young Aboriginal people in western Sydney, and in Dubbo, Life Without Barriers has utilised Aboriginal foster carers to provide support services to young Aboriginal people involved in the program.

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122 Honourable Greg Smith, MP, Attorney General and Minister for Justice, 'Key issues in juvenile justice' www.becausechildrenmatter.org.au/juvenile-justice/the-hon-greg-smith-sc-mp-key-issues-in-juvenile-justice. Accessed 22 August 2011.

123 NSW Law Reform Commission, *Bail: Questions for discussion*, June 2011 - paragraphs 12.5, 12.9, 14.1, 14.2 and 14.3.

124 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, paragraph 3.138, p. 79.

125 The current catchment area for Tirkandi is Riverina/Western NSW. There has been strong interest from communities in areas such as Bourke, Brewarrina, Wilcannia, Walgett, New England and the South Coast for a similar facility to be established.

126 *Tirkandi Inaburra Cultural and Development Centre Inc* www.tirkandi.org.au. Accessed 22 August 2011; Poulsen, Anthony, *Tirkandi Inaburra*, Presentation to the Sydney Institute of Criminology, *Aboriginal Young People and Crime Seminar*, 7 February 2011. www.sydney.edu.au/law/events/2011/Feb/Anthony_Poulsen.pdf. Accessed 23 August 2011; House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Inquiry into the high levels of involvement of Indigenous juveniles and young adults in the criminal justice system: NSW Government Submission*, February 2010, p. 13.

127 Poulsen, Anthony, *Tirkandi Inaburra*, Presentation to Sydney Institute of Criminology, *Aboriginal Young People and Crime Seminar*, 7 February 2011. www.sydney.edu.au/law/events/2011/Feb/Anthony_Poulsen.pdf. Accessed 23 August 2011.

Clearly, the needs of young people with a history of serious violence, chronic substance dependency and/or mental illness need to be addressed separately. For this reason, there may be merit in giving consideration to the establishment of a separate facility that focuses on this group of young people. Our consultations with communities have established that there are very limited options for this group apart from custody.

One program that is currently operating in Western Sydney and Newcastle to target serious young offenders is the Intensive Supervision Program (ISP), which is based on the multisystemic therapy model, an approach that addresses the multiple causes of juvenile offending.

*'As part of the program, teams of professionals go into the homes, schools and communities of these young people, and they are available to young offenders and their families 24 hours a day, seven days a week, for up to six months. These professionals look at the factors associated with juvenile reoffending, including substance abuse, housing needs, community disadvantage, family conflict, negative peer pressure and financial instability.'*¹²⁸

A key aspect of the ISP is working with the young person's family to identify the strengths in the family, and the processes needed to support the young person in the community.

Multisystemic therapy is expensive but advocates argue that the cost needs to be viewed in the context of the significant social and economic costs associated with the very problems and their consequences that it is seeking to address.

In May 2010, the then Minister for Juvenile Justice advised that 90% of the 87 families who had signed up to the program since May 2008 had completed it successfully. Preliminary research showed a 60% reduction in offending by young people during the program and 74% during the six months after completing the program. Data also suggested significant improvements in parenting skills, family relations and support networks.¹²⁹

The ISP continued to grow in 2009-2010, with 38 of 40 families enrolled for the year successfully completing the program, including successful completion by the 12 enrolled Aboriginal families.¹³⁰ Subject to further evaluation, the feasibility of further expanding this program should be seriously considered.

128 Honourable Graham West MP, Minister for Juvenile Justice, *NSW Parliament Legislative Assembly Hansard*, 19 May 2010, p. 23077.

129 Honourable Graham West MP, Minister for Juvenile Justice, *NSW Parliament Legislative Assembly Hansard*, 19 May 2010, p. 23077.

130 NSW Department of Human Services, Juvenile Justice, *Juvenile Justice Annual Report 2009-10*, 2010.

Chapter 5. Investing in education

What needs to change

- Improve the nature of the data that is collected, analysed and publicly reported about educational outcomes for Aboriginal students – including the performance of individual schools in relation to key indicators such as:
 - literacy and numeracy
 - school attendance and related enforcement action
 - suspensions
 - risk of significant harm reports in relation to educational neglect, and
 - student retention.
- Strengthen the effectiveness of both the Director General's Aboriginal Education Advisory Group and the NSW Aboriginal Education Consultative Group network by providing them with a more detailed breakdown of critical data.
- Promote and support strong leadership in schools with high numbers of Aboriginal students, including by linking school funding and principal salaries to the complexity of school environments.
- Review the capacity of the Home School Liaison Program, particularly in disadvantaged communities with high levels of school non-attendance, with the view to trialling an intensive attendance case management model.
- Explore innovative approaches aimed at keeping Aboriginal children and young people engaged with education, such as providing better access to mainstream boarding schools and giving consideration to establishing Aboriginal community residential schools.
- Review the use of exclusionary suspension practices and giving consideration to embedding an approach in secondary schools, similar to the existing Schools as Community Centres program, as a way of supporting 'hard to reach' adolescents.

*'Unless Indigenous children secure a good start in life, including a strong base of skills through the schooling system, their prospects for a healthy and productive life will remain bleak and progress in addressing Indigenous disadvantage overall will continue to be painfully slow.'*¹³¹

Three of the six *Closing the Gap* targets are directly related to improving educational outcomes for Aboriginal and Torres Strait Islander children and young people:

- Ensure all Aboriginal and Torres Strait Islander four year olds in remote communities have access to early childhood education within five years (by 2013).
- Halve the gap for Aboriginal and Torres Strait Islander students in reading, writing and numeracy within a decade (by 2018).
- At least halve the gap in Aboriginal and Torres Strait Islander Year 12 attainment or equivalent attainment rates (by 2010).

A fourth *Closing the Gap* target – to halve the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade – will be “directly influenced” by education.¹³²

Progress towards improving the educational outcomes of Aboriginal children and young people in NSW has been mixed. Since 2008, the percentage of Aboriginal students at or above the national minimum standard in Year 3 reading and Year 5 numeracy has increased. However, the percentage for reading in Years 5 and 7 has remained the same. The percentage of students at or above the national minimum standard for Year 9 reading and Years 3, 7 and 9 numeracy has “declined appreciably”.¹³³ Although there was an improvement between 2005-2010 in the retention rate of Aboriginal students (including an increase of more than 17% for students in Years 7-10), a “significant difference” remains in these rates relative to non-Aboriginal students.¹³⁴

¹³¹ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, p.15.

¹³² Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, 2011, p.6.1.

¹³³ NSW Department of Education and Training, *Annual Report 2010*, 2010, p.45.

¹³⁴ NSW Department of Education and Training, *Annual Report 2010*, 2010, pp.48-49. The introduction of new school leaving age legislation in 2010 influenced the outcomes in this area as children are now required to remain at school until they turn 17.

The overall attendance rate for Aboriginal students enrolled in government schools in NSW for 2010 was almost 85% – approximately 7% lower than for non-Aboriginal students. The rate of attendance by Aboriginal children is significantly higher in the primary (88%) than secondary grades (75%).¹³⁵ As we discuss later in this chapter, when attendance rates for Aboriginal children are disaggregated on a school by school basis, the rates in certain locations are much worse.

Substantial investments have been made by the federal and state governments to improve educational outcomes for Aboriginal children in NSW. There is acknowledgement that sustained change will not happen overnight. From our consultations with Aboriginal communities and the educators who work within them, it is clear that there are many committed people seeking to equip Aboriginal children and young people with a solid educational foundation. Yet more needs to be done – and differently – particularly in relation to improving school attendance and engaging Aboriginal children more effectively in the classroom. This is particularly important in high-need locations with significant Aboriginal populations.

In recognition that school attendance is an important protective factor in relation to child sexual assault, the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities* includes a range of actions aimed at improving Aboriginal children's school attendance. Since commencing our audit of the plan's implementation in 2009, we have focused on working closely with the NSW Office of Education's Aboriginal Education and Student Welfare directorates, and with regional education directors and school principals, to explore the types of strategies that appear to have a positive impact on school attendance in Aboriginal communities, and identify existing obstacles to progress in this area.

It is clear that the NSW Office of Education alone cannot achieve the required change. Rather, as illustrated by the Cape York Welfare Reform (outlined in Appendix 1 and discussed later in this chapter), sustained improvement is contingent on forging strong partnerships with communities and involving them in taking on responsibilities for supporting vulnerable children and their families – including giving them the power to do so. Given the strong link between habitual non-attendance at school and broader child protection concerns, efforts by schools must also be supported by active child protection and early intervention casework.

Finally, given the limited data that is publicly available about the performance of individual schools in relation to school attendance and broader education outcomes for Aboriginal students, stronger accountability mechanisms – including much closer tracking of the performance of individual schools against these important indicators – needs to be in place. This process of more active tracking of outcomes needs to be complemented by ongoing evidence-based reviews of innovative learning initiatives and the actual outcomes achieved.

5.1. National Aboriginal education initiatives

It is clear that the relevant *Closing the Gap* targets enact a strong recognition by governments that “improved educational outcomes are essential to overcoming many aspects of disadvantage”.¹³⁶ They are supported by the national *Aboriginal and Torres Strait Islander Education Action Plan* as well as the three ‘Smarter School’ National Partnerships, each of which has a specific focus on improving Aboriginal educational outcomes.

To ‘close to gap’ in the area of education, the *Aboriginal and Torres Strait Islander Education Action Plan* identifies six priority areas for national collaboration: school readiness; engagement and connections; attendance; literacy and numeracy; leadership, quality teacher and workforce development; and pathways to post-school options. A range of systemic and local actions are identified against each of these areas.¹³⁷

The plan also identifies jurisdictional priorities for each of the states and territories. The identified priorities for NSW are:

- improved outcomes for all Aboriginal and Torres Strait Islander students in literacy and numeracy, attendance, retention and completion
- professional development of the education workforce, and
- engagement with Aboriginal and Torres Strait Islander parents and communities.¹³⁸

135 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, Canberra, 2011. Table 6A1.1 shows that in 2009, the rate of attendance for Aboriginal students across the primary grades was 88% compared to 75% for the secondary grades.

136 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011, p.16.

137 A number of actions specifically relate to ‘focus schools’ – these are primary schools selected primarily by taking into account the number of Aboriginal enrolments together with literacy and numeracy levels as indicated by the National Assessment Program – Literacy and Numeracy (NAPLAN). There are 92 focus schools in NSW.

138 Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) as part of the Council of Australian Governments (COAG's), *Aboriginal and Torres Strait Islander Education Plan 2010-2014*, June 2011, p.29.

The plan has a strong focus on improving accountability. The states and territories will be required to report regularly to the Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) against a range of agreed performance indicators. They will also be required to provide information about their progress in implementing the systemic and local actions set out in the plan. In turn, MCEECDYA will prepare a public annual report.

The Smarter Schools Partnerships for Improving Teacher Quality; Literacy and Numeracy; and Low Socio-Economic Status School Communities are distinct yet interrelated agreements between the federal and state and territory governments.¹³⁹ All three plans have a strategic Aboriginal focus. More than 850 government and non-government schools (primary and secondary) in NSW are participating in the Smarter Schools National Partnerships, incorporating over 50% of enrolled Aboriginal students.¹⁴⁰

In March this year, the Senior Officers National Network for Indigenous Education convened a national forum on Aboriginal school attendance. The forum brought together representatives from state and territory education departments, the Department of Employment, Education and Workplace Relations, Aboriginal leaders such as Chris Sarra and Mick Gooda and the NSW Aboriginal Education Consultative Group. The aim of the forum was to obtain information about strategies being used to address poor school attendance and improve engagement of Aboriginal children in the classroom as a starting point in adopting a national approach to these issues.

As a result of the forum's success, NSW was allocated responsibility by the MCEEDYA to lead the working group on school attendance – which is National Collaborative Action 22 of the national *Aboriginal and Torres Strait Islander Education Action Plan*. This work will contribute to the development of a better evidence base of what works in improving Aboriginal student attendance.

5.2. Aboriginal education initiatives in NSW

In 2010, more than 42,000 Aboriginal students were enrolled in NSW government schools.¹⁴¹ “Overcoming the gap between Aboriginal and Torres Strait Islander students and the broader student population” is one of the NSW Office of Education's six key goals. Its overall targets, as outlined in the *Aboriginal Education and Training Strategy 2009-2012*, are to:

- Ensure all four year olds have access to a preschool program by 2013, including those in remote communities.
- Reduce the 2008 achievement gap in reading and numeracy between Aboriginal and non-Aboriginal students by 50% by 2012 and eliminate it by 2016.
- Reduce the 2008 gap in the completion of Year 12 (or VET equivalent qualification) by 25% by 2012 and by 50% by 2020.
- Increase the number of Aboriginal people participating in and completing VET courses at higher qualification levels.¹⁴²

The NSW Office of Education has implemented a range of initiatives to improve educational outcomes for Aboriginal students, including:

- *Norta Norta*.¹⁴³
- Schools in Partnership.¹⁴⁴
- Schools as Community Centres.¹⁴⁵
- Kids Excel.¹⁴⁶

139 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission *NSW Smarter Schools National Partnerships Implementation Plan*, October 2010, p.2.

140 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission *NSW Smarter Schools National Partnerships Implementation Plan*, October 2010, p.1.

141 NSW Department of Education and Training, *Government School System at a Glance*, www.det.nsw.edu.au/about-us/how-we-operate/annual-reports/annual-report-2010. Accessed 23 August 2011.

142 NSW Department of Education and Training, *Aboriginal Education and Training Strategy 2009 – 2012*, p.2. www.det.nsw.edu.au/media/downloads/strat_direction/aetstrat0912.pdf. Accessed 2 September 2011.

143 Funds schools to provide learning assistance to students and tutorial assistance for senior students as well as leadership and mentoring programs.

144 According to the Department of Education and Training's 2010 Annual Report, all schools participating in SiP reported improvements in learning outcomes, reduced suspension rates and enhanced community engagement.

145 The 47 sites provide services to “around 89 primary schools”. NSW Department of Education and Training, *Schools as Community Centres Results Based Report 2009*, p.4. www.schools.nsw.edu.au/media/downloads/schoolsweb/studentsupport/programs/ecip/sacc2009-ar.pdf. Accessed 5 September 2011.

146 NSW Department of Education and Training, *Annual Report 2010*, 2011, p.47.

- Development of personalised learning plans for Aboriginal students.¹⁴⁷
- Creation of a network of 26 Aboriginal student liaison officers to work with Aboriginal communities to develop local solutions to school non-attendance.¹⁴⁸
- Development of a mandatory Aboriginal module in pre-service teacher education, and over 20 professional development courses for current teachers to support learning outcomes for Aboriginal students.¹⁴⁹

The NSW Office of Education also has a partnership agreement (renewed in 2010) with the NSW Aboriginal Education Consultative Group (AECG), the peak advisory body on education and training which advocates on behalf of Aboriginal people and communities. The agreement establishes the following joint priorities, which we discuss throughout this section of the report:

- leadership, planning and accountability
- ongoing learning and professional development
- relationships and pathways, and
- quality teaching and training.¹⁵⁰

Recently, the NSW Minister for Aboriginal Affairs announced that, following a merit based process, the AECG has been granted \$1.277 million over three years to establish a Centre for Aboriginal Languages Coordination and Development. In making the announcement, the Minister commented on the emphasis placed by community leaders on teaching Aboriginal children their language as a way of instilling “a greater sense of identity, pride and confidence... [leading] to increased school attendance and participation.”¹⁵¹

5.3. School attendance

Clearly, there are a range of issues impacting on the educational outcomes for Aboriginal children and young people. However, there is a direct relationship between the number of days absent from school and academic performance.¹⁵² In this report we have focused on school attendance because it is a fundamental ‘building block’ on which other educational achievements depend. Aboriginal communities across the state have also consistently told us that they consider the failure of many children to regularly attend school to be a serious problem requiring urgent attention.

Research has also shown a correlation between arrest rates for Aboriginal young people and low school attendance rates for 15-17 year olds.¹⁵³ As we observed in the previous chapter, our review of a cohort of 48 ‘at risk’ Aboriginal children of primary school age from two high-need communities has confirmed that as well as contact with the criminal justice system, children’s failure to regularly attend school is often an indicator of broader abuse and neglect.

Although the state-wide rate of school attendance for Aboriginal students in NSW is 85%, the rate of attendance is significantly lower at a number of schools with large Aboriginal populations. For example, at Brewarrina Central School, the purported rate is 77%; Wilcannia Central School, 68% and Boggabilla Central School, 64%.¹⁵⁴ Moreover, our consultations with many school principals have indicated that the rate at which Aboriginal students attend school tends to be much lower than the rate of attendance for their non-Aboriginal peers. In this regard, our review of the 48 children revealed that almost 40% of this group missed 50 days of school – the equivalent of one whole school term – in at least one of the three and a half school years in the relevant period.¹⁵⁵ Half of these children were also suspended on one or more occasions during the period. This was in addition to the days of school missed due to non-attendance.

147 NSW Department of Education and Training, *Annual Report, 2010*, 2011, p.47. In 2010, approximately 24,000 plans were developed and implemented for Aboriginal students in NSW. According to the Department, these plans have improved the engagement of parents in their child’s education and the support they provide to them.

148 NSW Department of Education and Training, *Annual Report 2010*, 2011, p.15.

149 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission, *New South Wales Smarter Schools National Partnerships 2010 Annual Report*, April 2011, p.17.

150 NSW Department of Education and Training and NSW Aboriginal Education Consultative Group, *Together We Are, Together We Can, Together We Will Partnership Agreement 2010-2020*. www.aecg.nsw.edu.au/partnership-agreement.php. Accessed 31 August 2011.

151 Honourable Victor Dominello MP, Minister for Aboriginal Affairs, *NSW Government announces funding for Aboriginal language centre*, Media release, 20 July 2011.

152 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011, p. 6.2.

153 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011, p. 6.4.

154 Australian Curriculum, Assessment and Reporting Authority 2010, *My School*. www.myschool.edu.au. Accessed 23 August 2011. Many schools in Aboriginal communities are central schools. Central schools combine primary and secondary school years. Attendance rates tend to be higher at the primary level. Therefore, the overall attendance rates for central schools may not paint a true picture of attendance at the different levels.

155 The NSW Office of Education provided us with school attendance and suspension data relating to the 2007-2010 school years and for term 1 of 2011 in relation to all children between the ages of 8 to 11 years at any point during the relevant period.

The gap in school attendance between Aboriginal and non-Aboriginal students is also greater at Year 10 than at Year 5 level.¹⁵⁶ The true rate of attendance at school by Aboriginal students is therefore unlikely to be reflected in a school's overall attendance figures – particularly if the school is a central school that combines both primary and high school grades. The exclusion of suspension data from publicly reported school attendance rates also means that a clear picture of the number of school days missed by certain children is not easy to establish.¹⁵⁷ (We discuss the limitations of data on school attendance in more detail later in this section).

5.3.1. The current approach to school non-attendance in NSW

Under section 22 of the Education Act, parents have a duty to ensure children and young people in NSW aged six years and over are enrolled at and attend school, or be registered for home schooling, until they complete Year 10 or turn 17 years, whichever occurs first. A parent is guilty of an offence if they do not fulfil this duty.¹⁵⁸

Earlier this year the NSW Office of Education developed new guidelines on supporting student attendance.¹⁵⁹ The guidelines require schools to be proactive in addressing attendance issues. Those schools with attendance rates “below regional primary or secondary rates” are required to develop attendance action plans. Schools are also expected to identify individual students who are failing to regularly attend, and to implement strategies to address this.¹⁶⁰

The Home School Liaison Program aims to provide “an intensive support link between families and schools where compulsory school attendance issues have not been able to be resolved by the regular school-parent partnership.”¹⁶¹ Schools are expected to have implemented a range of strategies prior to referring a student to the program. Across the state, 110 home school liaison officers (HSLOs) and 26 Aboriginal student liaison officers (ASLOs) support the program,¹⁶² servicing more than 2,000 primary, secondary and central (both primary and secondary) schools.¹⁶³

The role of HSLOs and ASLOs is to support student attendance. Some of their duties include:

- conducting periodic roll checks in schools
- undertaking case work with families, including developing student attendance improvement plans, and engaging with local communities around broader school attendance issues, and
- working with other agencies (e.g. NSW Police Force) to implement joint strategies.

HSLOs are expected to carry a caseload of no more than 30 students at any one time, and ASLOs no more than 15.¹⁶⁴

Where an attendance improvement plan has been unsuccessful in resolving habitual non-attendance, and the parent/s have not “meaningfully engaged” with the plan, consideration may be given to commencing compulsory attendance enforcement action. Before 2010, the only legal option available if all other measures had failed to resolve the matter was prosecution of the student's parent/s in the Local Court. Legislative amendments in 2010 mean that other options are now available, such as confidential conferences and seeking a Compulsory Schooling Order in the Children's Court.¹⁶⁵

In 2010, a total of 5,197 students were accepted into the Home School Liaison Program across the state. Western Sydney had the highest number of referrals to the program (1,082) – this region also has the third largest number of student enrolments. Western NSW, which has the third lowest number of student enrolments, had the lowest number of referrals to the program (355).¹⁶⁶ The number of conferences conducted without the initiation of a court process in both regions was minimal – 48 in Western Sydney and just five in Western NSW.¹⁶⁷

156 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011, p.6.3.

157 Advice provided by the NSW Office of Education's General Manager, Access and Equity, 18 July 2011.

158 After Year 10 and until they turn 17, students must be in school, or registered for home schooling; or in approved education or training (e.g. TAFE, traineeship, apprenticeship); or in full-time, paid employment; or in a combination of work, education and/or training.

159 NSW Department of Education and Training, *Guidelines for supporting student attendance*, March 2011. www.det.nsw.edu.au/policies/student_admin/attendance/sch_polproc/HSLOgui09.pdf. Accessed 5 September 2011.

160 The national Aboriginal and Torres Strait Islander Education Action Plan requires all jurisdictions to develop an evidence-based attendance strategy in consultation with communities.

161 NSW Government, *Keep Them Safe: A shared approach to child wellbeing 2009-2014*, March 2009, p.8.

162 NSW Department of Education and Training, *Annual Report 2010 NSW Department of Education and Training*, 2011, p.15.

163 NSW Department of Education and Training, *Government School System at a Glance*. www.det.nsw.edu.au/about-us/how-we-operate/annual-reports/annual-report-2010. Accessed 23 August 2011.

164 NSW Department of Education and Training, *Guidelines for supporting student attendance*, March 2011. www.det.nsw.edu.au/policies/student_admin/attendance/sch_polproc/HSLOgui09.pdf. Accessed 5 September 2011.

165 NSW Department of Education and Training, *Enforcement of Compulsory School Attendance June 2010*. www.det.nsw.edu.au/media/downloads/about-us/statistics-and-research/key-statistics-and-reports/enforcement-school-attendance.pdf. Accessed 23 August 2011.

166 NSW Department of Education and Communities, *Key statistics and information*. www.det.nsw.edu.au/about-us/statistics-and-research/key-statistics-and-reports. Accessed on 1 September 2011.

167 Data provided by the NSW Office of Education on 15 July 2011.

Overall, 310 cases were referred for enforcement action in 2010. About 90% of these cases resulted in proceedings.¹⁶⁸ With respect to all court matters (Local Court and Children's Court), 3% of cases resulted in fines and 33% in the issuing of Final Compulsory Schooling Orders, while 27% of cases are ongoing. Thirty four per cent of matters were withdrawn and 3% were dismissed.¹⁶⁹ At present, the NSW Office for Education only reports overall data on actions taken. There is no regional or school breakdown, and no information about the number and type of interventions that have been implemented prior to coercive action being taken.

As noted in section 4.1.1, part of our oversight of the implementation of *Keep Them Safe* has involved an examination of the way Community Services is assessing, and responding to, risk of significant harm reports about habitual non-attendance at school. The *Children and Young Persons (Care and Protection) Act 1998* was amended in January 2010 to reflect habitual non-attendance at school as a risk circumstance.¹⁷⁰ "Habitually absent" is defined in the *NSW Online Mandatory Reporter Guide* as "a minimum of 30 days absence within the past 100 school days. However this is context/age dependent."¹⁷¹ Our work has highlighted that to effectively engage with Community Services around the issue of habitual school non-attendance, schools must be able to demonstrate the types of interventions that they have implemented in relation to a child's poor school attendance. Neither Community Services, nor the NSW Office of Education, reports publicly on the number of children who are the subject of risk of significant harm reports made by schools where educational neglect is a factor.

5.3.2. The need for innovative strategies to address non-attendance

The 136 HSLOs/ASLOs are expected to support the work of regional attendance teams that cover more than 2,000 schools across the state. Although HSLOs/ASLOs and regional attendance teams play an important role, from our consultations with those who work in this area, we have learnt that their effectiveness can be limited by a range of factors, including:

- Not becoming involved in a matter until a student's non-attendance is well entrenched and school-based strategies have been exhausted.
- Having a very large number of schools/geographic areas that individual officers are required to service (particularly in regional and remote parts of the state where some of the most disadvantaged Aboriginal communities are located).
- Difficulties in building solid relationships with families – often because the large area that they are required to cover prevents them from having the type of intimate knowledge of, and connection with, communities that would facilitate this.
- Occupational health and safety considerations that can prevent them from carrying out home visits – this can inhibit their ability to engage with families who have had a significant history of contact with police and whose children have been identified as being at-risk of neglect.
- Poorly coordinated and ineffective services in some locations leaving them with fewer referral options.

In our view, there needs to be an assessment of the current capacity of the Home School Liaison Program and a related examination of the effectiveness of the various strategies that are being utilised in communities where school non-attendance is a significant issue. These are discussed in the following section.

5.3.2.1. Involving community at an early stage in implementing a more vigilant case management approach to school attendance

There is a lack of sufficiently rigorous evaluations of programs that are aimed at increasing school attendance. However, the available evidence indicates that a common feature of successful programs is "collaboration between public agencies and the community...in program design and decision making."¹⁷²

We believe that, in NSW, there is merit in involving respected local Aboriginal community leaders in working with school authorities to address non-attendance at school by Aboriginal students. This approach aligns with the policy commitment in the NSW implementation plan for the National Partnership for Low Socio-Economic Status School Communities, which refers to "engaging and building the capacity of elders and other Aboriginal community

168 The 10% of matters not commenced are attributed to a range of reasons, including unable to serve court papers, improvement in attendance and the student moving outside of jurisdiction.

169 NSW Department of Education and Communities, *Key statistics and information*. www.det.nsw.edu.au/about-us/statistics-and-research/key-statistics-and-reports. Accessed 1 September 2011.

170 *Children and Young Persons (Care and Protection) Act 1998*, section 23 (b1).

171 NSW Department of Human Services, *NSW Online Mandatory Reporter Guide*, January 2010.

172 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011, p.6.4.

members [to] provide in-classroom support in relation to core areas such as attendance, reading and numeracy.”¹⁷³ We understand that some schools are already “working to build the capacity of local elders and Aboriginal community members”.¹⁷⁴

In Chapter 4, we outlined the role that community members could play in supporting vulnerable children and their families through a ‘community conference’ type arrangement, similar to the role played by local Aboriginal commissioners through the Family Responsibility Commission (FRC) in Cape York. These local commissioners conduct conferences with families who are the subject of notifications about child safety, school non-attendance, tenancy breaches and certain criminal convictions (see case study 3 later in this section). Establishing local community panels to work with families in relation to child protection and school non-attendance issues, has the potential to send a strong message to parents about the need to take responsibility for the care of their children in a way that builds on the existing strengths with kin connections within Aboriginal communities. Using respected Aboriginal leaders to perform this role would also ensure that these leaders are given appropriate recognition, and can play a more informed and powerful role in both advocating for individual families and children, and for services to assist those who are willing to take responsibility to deal with problems.

Furthermore, utilising Aboriginal leaders in this way would be consistent with relevant legislative and policy requirements that recognise the importance of proactive attempts to resolve problems prior to court initiated action. In this regard, the evidence currently shows the low number of conferences facilitated by region education officers under the Education Act. The need to more fully utilise alternative dispute resolution in relation to child protection matters has been highlighted previously by our office in our 2007 discussion paper, *Care Proceedings in the Children’s Court*, which was strongly endorsed by the Wood Inquiry.¹⁷⁵

The following case study illustrates the early intervention approach used by the FRC in Cape York to address school non-attendance. This approach includes referring families who come before the Commission to a range of supports before income management sanctions are applied. However, it is important to recognise that attendance case managers play an absolutely critical early intervention role. While there are a number of schools in rural and remote locations in NSW such as Bourke Public School that have established initiatives to manage school attendance through a home visit program, they are not as well-resourced and intensive in their interventions as the Cape York model, nor are they implemented consistently in high-need locations where school attendance rates are extremely poor.

Case study 3: Promoting school attendance in Cape York

In Appendix 1 we profile the work that is taking place as part of the Cape York Welfare Reform trial in Queensland. One of the main reasons for our recent visit to the communities participating in the partnership was to speak with Aboriginal leaders and government representatives about the apparent gains that have been achieved in the area of education.

A significant aspect of the work of the Family Responsibility Commission (FRC) – a key component of the partnership – is the extent to which it has placed a spotlight on the issue of school attendance within communities. There is an expectation that the rate of school attendance in the communities will be 100%. Intervention occurs early, with families being referred to the FRC if their child has three unexplained absences from school. It is apparent that local Aboriginal commissioners have shown strong leadership on the issue, and have been influential in encouraging families to take greater responsibility for their children’s attendance and their welfare more generally.¹⁷⁶

The role played by attendance case managers in the partnership communities is also critical. Attendance case managers are school-based and work with the FRC commissioners, students, parents, schools and the broader community. They collect the rolls each day and visit parents if a student is late or absent from school, make referrals to services, and provide other supports to parents in meeting their obligation to ensure their children attend school. Case managers identify when 100% attendance has been achieved over the period of a week, four weeks and a school term, and implement a range of ‘positive reinforcement’ measures.

173 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission *NSW Smarter Schools National Partnerships Implementation Plan*, October 2010, p.5.

174 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission, *New South Wales Smarter Schools National Partnerships 2010 Annual Report*, April 2011, p.40.

175 NSW Ombudsman, *Care proceedings in the Children’s Court – a discussion paper*, 2007.

176 Having said this, in certain communities, such as Coen, school has always been valued and attendance has been relatively high for many years.

The FRC commissioners that we consulted were very clear about the benefits of speaking directly with families about their problems and letting them know that support is available for them. These respected community members were better placed than government agencies to effectively communicate to families the formal consequences that may result if they are unwilling or unable to take action to provide a more protective environment for their children.

Irrespective of whether a community panel approach is adopted in NSW, there is a compelling case for a more targeted and intensive attendance case management model to address habitual school non-attendance. In this regard, we note that in June this year, in releasing the findings and recommendations of its inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system, the Australian House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs acknowledged the benefits of the school attendance case management approach.¹⁷⁷

However, what also needs to be recognised is that, whatever approach is adopted to improve school attendance in Aboriginal communities, it needs to be implemented with strategies for addressing the broader structural problems with the planning, funding and delivery of services particularly in relation to high-need Aboriginal communities.¹⁷⁸ As outlined in our report on service delivery to the Bourke and Brewarrina communities, a broad range of well-targeted services need to be in place at a local level in order for attendance issues to be responded to in terms of their 'root' cause.

There are a range of options that could be explored in implementing an attendance case management model, including expanding the NSW Office of Education's home school liaison program and the number (and role of) school liaison police. With respect to this, late last year we recommended to the NSW Office of Education and NSW Police Force that a dedicated school liaison police officer position be trialled in a high-need Aboriginal community in NSW with low rates of school attendance to provide the practical supports necessary to get children to school each day, and link their families with other services.

A similar approach is being used by local police in Doomadgee, in Far North Queensland. The community and agency representatives that we consulted during our recent visit to Doomadgee were extremely positive about this approach and its beneficial effect on police and community relations. In addition, the principal at Doomadgee school is also in the process of securing Parental and Community Engagement (PACE)¹⁷⁹ funding through DEEWR to establish an attendance case management team. A number of NSW schools have also sought to use federal funding in this way.

5.3.2.2. Increasing Aboriginal employees in schools

As part of a comprehensive approach to improving school attendance in Aboriginal communities, there is also a need for more Aboriginal people to be permanently employed in school-based positions that are able to work flexibly with children and their families in a supportive way. Although "the employment of Indigenous teachers and the presence of Indigenous adults in the school have been found to promote positive self-identity among Indigenous students",¹⁸⁰ the proportion of Indigenous teachers and education workers is consistently lower than the proportion of Indigenous students.¹⁸¹

We acknowledge that the National Partnership for Improving Teacher Quality includes strategies designed to attract and retain Aboriginal teachers. The NSW Office of Education offers scholarships to Aboriginal people wanting to train as primary or high school teachers. This year, 86 scholarships were awarded to Aboriginal applicants.¹⁸²

In addition, 'paraprofessional' support positions have been created for short-term appointments in schools with a high proportion of Aboriginal students, including remote schools. These positions are to assist teachers by providing specific literacy and numeracy support and facilitating small group and one-to-one interventions.¹⁸³ While the appointment of these paraprofessional positions is a positive step, many community members and educators have raised concerns with us about these positions being funded on a temporary basis. They have argued that if positions of this type have been shown to add value in critical areas such as improved school attendance and classroom

177 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, p.175.

178 We discuss the need to address these issues in Chapter 7.

179 The Parental and Community Engagement Program focuses on the development and implementation of creative and innovative approaches to improve the educational outcomes of Indigenous school students through enhancing Indigenous parental engagement with schools and education providers. See www.deewr.gov.au/Indigenous/Schooling/Programs/Pages/ParentalandCommunityEngagementProgram.aspx. Accessed 2 September 2011.

180 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011. p.6.1.7.

181 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011. p.6.1.9.

182 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011, p.6.1.4.

183 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission *NSW Smarter Schools National Partnerships Implementation Plan*, October 2010.

engagement, they should be established permanently in schools with significant Aboriginal populations – particularly in high-need locations.¹⁸⁴ Leaders with a strong record of achievement in Aboriginal education have stressed the important role played by Aboriginal education workers in raising standards of achievement and have highlighted that they should be regarded as ‘co-educators’ rather than simply as support staff.

5.3.2.3. Better tracking and public reporting of attendance data

While ‘increasing’ school attendance rates for Aboriginal students is one of the performance indicators identified by the NSW Office of Education under its goal of overcoming the gap between Aboriginal students and the broader student population, it does not constitute a specific target. Nor does it embody an explicit commitment to ‘close the gap’ on attendance rates between Aboriginal and non-Aboriginal students.

Neither the NSW Office of Education nor the Australian Curriculum Assessment and Reporting Authority’s national *My School* website publicly report on Aboriginal student attendance rates for individual schools. This means that it is not possible to easily determine those schools where the non-attendance of Aboriginal children is most critical. This is highly problematic from an accountability perspective.

Of the reported attendance data that is publicly available, there are additional limitations. For example, it does not reflect the number of students within particular schools who have not attended on a large number of occasions. The significance of this is that a few children with a very poor record of attendance can distort the overall statistics for a school. The data also does not take into account the number of days missed by students due to suspension (as suspended students are not ‘required’ at school, they are not classified as absent). We know that suspension rates are much higher among Aboriginal students. In 2009, 22% of students on long suspensions were Aboriginal – this represents 5.6% of total Aboriginal student enrolments, compared with the overall long suspension rate of 1.5%.¹⁸⁵ Partial school attendance by students may also ‘skew’ attendance data as they are only considered to be absent on a given day if they miss more than three hours of school. Furthermore, several sources have told us that depending on the rigour of roll marking practices at individual schools, students who are attending school only for ‘roll call’ in the morning may not be identified as absent.

As noted earlier in this report, in June 2011 the Australian House of Representative Standing Committee on Aboriginal and Torres Strait Islander Affairs released the findings and recommendations of its inquiry into Indigenous youth in the criminal justice system. The committee specifically recommended that the Federal Minister for Education “immediately conduct a review into how daily school attendance and retention rates are measured to ensure that data collected can accurately inform strategies to increase attendance and retention rates and monitor progress in these areas.”¹⁸⁶

The national *Aboriginal and Torres Strait Islander Education Action Plan* requires focus schools to develop an evidence based attendance strategy in consultation with parents and the community, and to publish, monitor and evaluate the strategy and report annually on progress towards meeting their targets. This is a positive initiative. It will be important that the annual reporting includes the type of data and information about Aboriginal attendance that is currently not publicly available.¹⁸⁷

5.4. Keeping children and young people engaged at school

It is one thing to get children to attend school. However, maintaining regular school attendance – particularly as children grow older – depends on keeping students engaged in the classroom.

As noted earlier, school attendance rates decline for many Aboriginal children once they reach high school. Our consultations have indicated that the key factors involved in maintaining school engagement are attracting high quality staff; implementing innovative approaches to learning; promoting post-school pathways; and taking an inclusive approach to ‘hard to reach’ adolescents. In turn, each of these factors is dependent on strong school leadership.

184 We note that the NSW Department of Education and Communities’ recently released discussion paper, *Local Schools, Local Decisions* (September 2011) comments that centralised budgeting and administration currently “leaves schools with little flexibility to design both teaching and support roles to meet student needs”. In this regard, the commitment articulated in the discussion paper to give schools “the flexibility to adapt their staffing mix to local need” is very positive (p8).

185 NSW Department of Education and Training, *Long suspension and expulsion summary 2009*. www.det.nsw.edu.au/detresources/suspexpul2009_oEuDLGhsYu.pdf. Accessed 7 September 2011.

186 House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, June 2011, Recommendation 17.

187 Ministerial Council for Education, Early Childhood Development and Youth Affairs (MCEECDYA) as part of the Council of Australian Governments (COAG’s), *Aboriginal and Torres Strait Islander Education Plan 2010-2014*, June 2011, p.18.

5.4.1. Quality school leadership

Our consultations with Aboriginal communities and the educators who work within them have revealed that the quality of the school environment is one of the most important factors in engaging children and young people in education. In turn, the biggest influence on school environment is strong leadership. All of the elements that we have outlined below depend on quality school leadership.

Perhaps one of the better known illustrations of what strong school leadership can achieve is the impressive record of Cherbourg Primary School (near Gympie in Queensland – an area with a significant Aboriginal population) under the leadership of Dr Chris Sarra (who has since gone on to establish the Stronger Smarter Institute). Student attendance and academic performance was extremely poor when Dr Sarra arrived at Cherbourg as the school's first Indigenous principal in 1998. To reverse this trend, he implemented a range of innovative strategies, including engaging with the local community to develop a 'vision' for the school, rewarding students in practical ways for regularly attending school, employing local Aboriginal people to provide maintenance services and introducing an Aboriginal studies program.¹⁸⁸ Within three years, the attendance rate increased to 94% and student literacy rates improved by 63%, rising from the bottom of the state to the state average.¹⁸⁹

It is important to recognise, however, that in an educational context, building school leadership should not be solely reliant on the personal qualities of individual educators. It must be embedded in the education system through articulating clear expectations about what schools are expected to achieve; putting in place systems that provide school leaders with sufficient authority and flexibility to implement strategies to address the particular challenges their communities face; and close monitoring of outcomes. In this regard, we note that the Department of Education and Training's recently released discussion paper, *Local Schools, Local Decisions*, has a strong focus on increasing the authority of local schools to make more local decisions (including through providing them with a total budget that can be flexibly applied to meet school priorities) and developing an appropriate accountability framework that reflects this authority.¹⁹⁰

As noted previously, the NSW Office of Education has signed a partnership agreement with the Aboriginal Education Consultative Group to work on leadership, planning and accountability. The Office of Education also offers a variety of leadership programs. It is the Office's expectation that all 295 NSW government schools currently involved in the National Partnership for Low Socio-Economic Status School Communities will undertake a leadership program.¹⁹¹ In the Western region, schools have jointly contributed funding towards an 'Aboriginal pedagogy officer', 'partnership mentor' and 'connected learning coordinator' to lead professional development and improve quality teaching.¹⁹²

A number of NSW schools (11 'hubs' and 34 'affiliates') are also participating in the Stronger Smarter Schools initiative run by the Stronger Smarter Institute.¹⁹³ Schools are accredited as 'Stronger Smarter Learning Community hubs' when their leaders have successfully completed the Institute's leadership program, and can successfully demonstrate Indigenous community engagement; evidence of improved rates of Indigenous student attendance, achievement and outcomes (especially on NAPLAN benchmarks); and capacity to sustain own school reforms and willingness to assist other schools to initiate similar reforms.¹⁹⁴

Case study 4, which profiles a 'Stronger Smarter' school – Menindee Central in Western NSW – provides an example of the gains that can be achieved in Aboriginal communities with strong school leadership; in this case, provided by the principal, Brian Debus.

188 Department of Education, Employment and Workplace Relations, Dare to Lead. www.daretolead.edu.au. Accessed 25 August 2011.

189 Ferrari, Justine, 'School as a sacred place', *The Australian*, 21 May 2011.

190 NSW Department of Education and Communities, *Local Schools, Local Decisions*, Discussion Paper, September 2011, p.5.

191 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission, *New South Wales Smarter Schools National Partnerships 2010 Annual Report*, April 2011, p.23. Leadership programs include Team Leadership for School Improvement and Great Leaders Great Results Covey Leadership Program.

192 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission, *New South Wales Smarter Schools National Partnerships 2010 Annual Report*, April 2011, p.26.

193 Queensland University of Technology, Stronger Smarter Institute. www.strongersmarter.qut.edu.au/sslc/schools.jsp. Accessed 25 August 2011.

194 Queensland University of Technology, Stronger Smarter Institute. www.strongersmarter.qut.edu.au/sslc/schools.jsp. Accessed 25 August 2011.

Case study 4: Menindee Central School – a stronger smarter school

The small town of Menindee is located in Far West NSW, about 100km east of Broken Hill. The Menindee Central School caters for about 120 children – 70% of whom are Aboriginal – from kindergarten through to year 12.

The school has taken an innovative approach to improving outcomes for its Aboriginal students and their families by actively engaging with them. With funds provided by the Schools in Partnership Program, the school employs an Aboriginal male educator (AME) to act as a role model for Aboriginal boys, to assist in creating a culturally-inclusive curriculum, and liaise with parents, carers and other community members. The position is so unique that the NSW Office of Education was required to create a new classification to encompass it.¹⁹⁵ Using a targeted approach, the AME works intensively to engage with young people who are not regularly attending school, employing practical measures such as home visits and encouraging participation in sport.

To provide young people with post-school pathways and promote community development, the school has also established an 'enterprise park' which provides paid traineeships in hospitality and agriculture, as well as employment opportunities for local residents. Community partnerships have been developed to support the program. Further strengthening the school as a 'community hub' are the adult education classes which are run in the evening, including Aboriginal Studies, Art and Sport. The school also has an excellent, collaborative relationship with the local Aboriginal Education Consultative Group.

2010 saw a rise in attendance rates for both primary and secondary students, with a dramatic increase in rates of attendance for secondary students – higher than the region's average attendance and just 0.3% below the state average. Suspension rates have also fallen. And, compared to the national average of 23%, 66% of the school's former students between 18 and 25 are in full time education or employment.¹⁹⁶

In schools that have strong leaders, teacher turnover decreases and community connections are enhanced. The NSW Office of Education must continue to have a strong focus on developing the leadership of educators, and putting in place the 'infrastructure' required to both support school leaders and hold them to account.

5.4.2. Attracting quality staff to high need locations

*'Teacher quality is considered the most important in-school factor in improving outcomes for Indigenous students.'*¹⁹⁷

It is critical to attract people with the skills and attributes that are required to work in areas of significant Aboriginal disadvantage. These include the ability to seek out creative solutions to local problems; a willingness to genuinely involve Aboriginal communities in decision making about, and the implementation of, initiatives aimed at improving outcomes for students; and the ability to work with other agencies and organisations in identifying and responding to the needs of at-risk children and young people. Educators working in high-need Aboriginal communities are called upon to perform a complex role. While the same may be said in relation to other types of disadvantaged communities, many Aboriginal communities are located in rural and remote locations, where infrastructure and support for teachers is often very limited and the service sector is 'stretched'.

COAG has identified "the level of teacher and school leader quality at Indigenous schools" and "the numbers of high quality teachers and school leaders attracted to and retained in Indigenous schools", as key measures against the National Partnership for Improving Teacher Quality.¹⁹⁸ The Federal Government has also recently invested \$5 million in the Teach Remote program to attract and retain high quality teachers in remote areas across Australia. The program encourages teachers to commit to a minimum two year placement.¹⁹⁹

Like the NSW Police Force, the NSW Office of Education offers a range of benefits and incentives for teachers to take up appointments in rural areas; these include additional training and development days; rental subsidies; eligibility to apply for incentive transfer; an annual retention benefit; a range of locality specific allowances and one week of additional summer vacation for schools in the western areas of NSW.²⁰⁰

195 Department of Education, Employment and Workplace Relations, Dare to Lead. www.daretolead.edu.au/STORY_Menindee_Central_School. Accessed 4 August 2011.

196 NSW Department of Education and Training, 2010 *Annual School Report Menindee Central School*, 2010.

197 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011. p.6.9.

198 Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011. p.6.9.

199 Honourable Peter Garrett MP, Minister for School Education, Early Childhood and Youth, *New \$5m scheme for teachers in remote communities*, Media release, 20 June 2011.

200 NSW Department of Education and Communities, *Schools with additional incentives*. www.det.nsw.edu.au/about-us/careers-centre/school-careers/teaching/our-programs-and-initiatives/explore-your-future/teaching-in-rural-nsw/incentive-schools. Accessed 25 August 2011.

Given the importance of attracting quality school leaders to high-need locations, in our view there is scope to create further incentives by giving consideration to formally recognising particular schools in such locations as having 'special classification' status in recognition of the particular skill set required to lead these schools.²⁰¹ This status could attract additional incentives tied to specific performance measures. A number of school educators that we consulted, who have extensive experience working in rural and remote communities, suggested that this may assist in attracting high quality applicants for principal and other leadership positions in disadvantaged locations. It is therefore pleasing to note that the aforementioned *Local Schools, Local Decisions* discussion paper addresses the issue of school and principal classification, commenting that "the salary of the principal should reflect the complexity of the school in the same way that funding should reflect the complexity of the school".²⁰²

The current suite of incentives offered demonstrates a significant commitment on the part of the state and federal governments to strengthening the capacity of schools to deliver positive outcomes for Aboriginal students. However, it is essential that the NSW Office of Education closely monitors and reports on the effectiveness of initiatives aimed at attracting high quality teachers and principals to rural and remote areas, and other high-need locations. This will assist in assessing the value of these types of investments, and whether or not they should be extended further. Although some information is available through the NSW Office of Education's annual reports and progress reports for the Smarter Schools National Partnerships, there is scope for more specific and consistent detail to be reported publicly about the success of such initiatives. In this regard, the accountability framework for the national *Aboriginal and Torres Strait Islander Aboriginal Education Action Plan* should assist.

5.4.3. Innovative approaches to learning

It is apparent from the most recent NSW progress report on the implementation of the Smarter Schools National Partnerships that a range of different approaches to the education of Aboriginal students is being implemented in NSW, particularly in the area of literacy and numeracy through a number of 'intensive support programs'. The 2010 progress report highlights a number of these programs and how they are being implemented by schools. Case study 5 provides two examples from the New England region.

Case study 5: Improved literacy and numeracy results

Walhallow Public School, which has a 100% Aboriginal student population, has developed a 'whole school approach' to literacy. Using funding received under the National Partnership for Low Socio-Economic Status School Communities, the school has restructured from one Kindergarten to Year 6 class to one infants and one primary class. This has enabled more effective provision of individualised support to students. An expert teacher has also been appointed to lead mentoring and professional development in the use of the Accelerated Literacy program. Parents and community members have been directly engaged in working with the school to support student literacy. In the six months to June 2010, all students improved their reading by a minimum of three 'Reading Recovery' levels.²⁰³ The school has an attendance rate of 93%.²⁰⁴

In neighbouring Quirindi, the primary school has 360 students. Although only one fifth of the school population is Aboriginal, the school has implemented a range of targeted learning strategies for Aboriginal children which have been highly successful. As part of the school's Aboriginal education program, teachers and support staff met with each parent and child to negotiate a personal learning plan during 2009. The school used their Norta Norta funding to target Aboriginal students regarded as being 'at-risk' according to their NAPLAN results in literacy and numeracy, including engaging a tutor to implement accelerated learning strategies. A University of Western Sydney study of rural schools across the state found that Quirindi Public School had the highest results for Aboriginal students in the state.²⁰⁵ Another achievement is the school's high Aboriginal employment rate which represents one quarter of all staff.

Our visit to Cape York earlier this year enabled us to directly observe the teaching and school leadership programs being implemented by the Cape York Aboriginal Australian Academy (CYAAA) under the leadership of Noel Pearson. The CYAAA commenced in 2010 in the communities of Aurukun and Coen, and has since been extended to Hopevale. The CYAAA uses the 'direct instruction' method of teaching, with a strong focus on establishing a solid foundation in literacy and numeracy. Classes are arranged according to achievement level and not age, and students are regularly tested, with results centrally assessed to benchmark their progress. Data on the outcomes being

201 We understand that there is a precedent for this in that the Conservatorium of Music has a 'special classification'.

202 NSW Department of Education and Communities, *Local Schools, Local Decisions*, Discussion Paper, September 2011, p.9.

203 Australian and New South Wales Governments, the Association of Independent Schools NSW and the NSW Catholic Education Commission, *New South Wales Smarter Schools National Partnerships 2010 Annual Report*, April 2011, p.46.

204 Australian Curriculum, Assessment and Reporting Authority 2010, *My School*. www.myschool.edu.au. Accessed 14 May 2011.

205 NSW Department of Education and Training, *2009 Annual School Report Quirindi Public School*, 2009.

achieved by the Academy will be available in approximately six months time. However, we were informed during our visit that many students who were initially two to four years behind in terms of the levels of literacy and numeracy expected for their age are now demonstrating achievement at an age appropriate level.²⁰⁶

Quite apart from observing the direct instruction method in practice, what stood out to us was that, despite there being differing and firmly held opinions in Cape York about the best teaching methods for Aboriginal students, significant dialogue was taking place at a whole of community level about education. This dialogue in and of itself is extremely encouraging.

As we are not educators, it is not appropriate for us to endorse or recommend the adoption of any particular teaching method in NSW as part of a broader strategy for improving educational outcomes for Aboriginal children. However, it is our strong view that evidence rather than ideology should drive decisions about which particular education initiatives should be promoted for implementation in NSW. In noting this, it is also important to acknowledge that not all initiatives and related outcomes may be transferrable to different locations. For this reason, as part of building the evidence base about 'what works', it will be essential to closely track and publicly report on the outcomes of initiatives. In terms of the need for an ongoing process of improving practice in this area, it is also essential that there are extensive and ongoing discussions with the AECG and communities about different approaches to educating Aboriginal children.

Finally, we note the desire of a number of Aboriginal leaders to be able to access residential boarding school accommodation for their children when economies of scale or other factors mean that local schools cannot or are unlikely to provide a quality education. As we observed in our profile about the Cape York Welfare Reform Trial (Appendix 1), boarding schools are well attended by Aboriginal students in Queensland, with the state government complementing independent school scholarships with transitional support.²⁰⁷ In NSW, boarding school scholarships are offered by a number of independent schools in Sydney and country NSW for young people from rural and remote locations.

From our perspective, the focus needs to be on how the best outcomes for young people living in high-need rural locations can be achieved. Ideally, a quality education will be able to be provided to these young people in their communities. However, what needs to be recognised is that school is only one source of influence on young people. The high incidence of anti-social behaviour that currently exists in some of the most disadvantaged areas means that even a very good school will experience difficulty contending with 'external' negative influences in shaping the futures of young people. As with all other significant issues impacting on communities, it is critical to work through, in partnership with individual community leaders, the best options for engaging young people in the school system.

While the federal Department of Education, Employment and Workplace Relations provides some financial assistance to support young people to attend boarding schools, the NSW Office of Education does not provide the same type of transitional support as the Queensland Government. In our view, there would be merit in the NSW Office of Education giving consideration to doing so. In addition, to facilitate a greater range of education options for the parents of Aboriginal children living in rural and remote areas, there could also be merit in considering the initiative implemented by Cape York Partnerships to establish a school education trust fund across the four communities participating in the Cape York Welfare Reform trial (see Appendix 1).

5.4.4. An inclusive approach to 'hard to reach' adolescents

Many initiatives that have been implemented in both NSW and nationally with the aim of improving the educational engagement of Aboriginal students have focused on younger children. While this 'early intervention' approach makes sense, there is also a need to target older, 'hard to reach' adolescents. Our extensive consultations with educators and Aboriginal communities have confirmed that in many locations, Aboriginal adolescents have much higher rates of school non-attendance and suspensions than do their non-Aboriginal peers.

When suspended from school, young people usually either stay at home or, for students on long suspensions, attend a specific purpose 'suspension centre'. Both methods of suspension involve exclusion from the student's regular school environment.

206 Consultation with Executive Principal of *Cape York Aboriginal Australian Academy* on 1 August 2011.

207 The HEP program is a partnership between Macquarie Group Foundation, DEEWR and the Cape York Institute. The support strategy includes use of tutors, mentors, role models, weekend home stay families and counsellors. DEEWR also provides leadership development mentoring, study tours and orientation activities. As part of the HEP, all secondary students in the four welfare reform communities are eligible to receive the ABSTUDY away from home entitlements. In addition, almost all these students receive support from the Queensland Department of Education and Training's Transition Support Service. According to the Executive Principal of the CYAAA, this transitional support from Government is critical to the overall success of the HEP. Cape York Partnerships, *About Cape York Partnerships*. www.capeyorkpartnerships.com. Accessed 15 September 2011.

There are a number of suspension centres in NSW.²⁰⁸ Many community leaders and educators that we have spoken with have criticised their use, explaining that they effectively become a ‘dumping ground’ for young people who misbehave, detaching them from the positive influences of the normal school environment. Suspensions which simply exclude students from school for a period of time are also seen by many community leaders and educators as negative in that they remove the protective factor offered by school, placing vulnerable young people at risk of either engaging in, or becoming the victims of, criminal behaviour. Further, any method of suspension that involves a young person being excluded from their usual place of education can ‘backfire’ because not having to attend school can be regarded by young people as a ‘bonus’ – leading to further poor behaviour aimed at incurring additional suspensions.

A number of principals and regional education directors have indicated to us their preference for a more systematic use of ‘in-school’ suspensions – exercising the use of exclusionary suspensions only in situations where very serious risks are evident. Apart from data about the use of long-suspensions across school education groups, there is limited publicly available information about the type and frequency of suspensions utilised by individual schools. The majority of information we have obtained to-date has been anecdotal. However, our review of a cohort of primary school-aged children from two remote communities and our oversight of a complaint about suspension practices at Wilcannia Central school has revealed that exclusionary suspensions have been regularly used at these three schools with large numbers of Aboriginal students. Significantly, our review showed that 27 of the 48 (56%) children in our cohort had been suspended on one or more occasions, and often in more than one of the four school years within the relevant period.²⁰⁹

In addition, while we are aware that many schools have partnerships with other government agencies and non-government organisations which are aimed at providing welfare and support services to vulnerable students,²¹⁰ we believe there is scope to consider how these services could be expanded and embedded within the actual school environment. In section 5.2, we noted the Schools as Community Centres Program. This is based in primary schools and aimed at supporting families raising children from birth to eight years of age. Common initiatives delivered by participating schools include supported playgroups, early literacy, parenting and transition to school initiatives, adult learning and health and nutrition initiatives.²¹¹ A similar model targeting assistance and support to adolescents and their families in high-need Aboriginal communities could be explored. However, as we have pointed out on a number of occasions, the effectiveness of a model of this type would largely depend on the availability of a well-functioning, integrated service sector in local communities.

As with other areas we have outlined in this section, local community members can also play an important role in supporting ‘hard to reach’ Aboriginal young people. Case study 6, which outlines the Mooki Murriss program at Quirindi High School in the New England region, provides one example of how involving local community members as mentors can be effective.

Case study 6: ‘Mooki Murriss’ mentor program

At Quirindi High School in the New England region, the Mooki Murriss program was formed “in direct response to the problems of disengagement, poor achievement, a lack of cultural identity and attendance issues” among Aboriginal male students. Fourteen mentors, all graduates of the school who are now employed in a wide range of professions, meet with students on designated ‘mentor days’ each school term. Topics discussed include employment, further education, drug and alcohol awareness and healthy relationships. The program also includes ‘fun days’ that incorporate a range of cultural activities, such as fishing. It has reportedly led to positive changes in the behaviour of participating students, including an increase in their level of pride. The program has received support from a range of local partners, including BHP Billiton, the Namoi Catchment Management Authority and the Indigenous Coordination Centre.²¹²

208 Squires, Rosie, ‘New education minister plans suspension centres for bullies’, *Daily Telegraph*, 29 April 2011. The most recent official, publicly available information about the number of suspension centres in NSW was reported in the Department of Education and Training’s 2007 Annual Report as being 22 (p.38).

209 Data was provided by the NSW Office of Education for the 2007-2010 school years and term 1 of 2011.

210 An example is the Reconnect program, which is targeted at young people who are homeless or at-risk of homelessness, and aims to stabilise their living situation and improve their level of engagement with family, work, education, training and their local community.

211 NSW Department of Education and Training, *Schools as Community Centres Results Based Report 2009*, p.3. www.schools.nsw.edu.au/media/downloads/schoolsweb/studentsupport/programs/ecip/sacc2009-ar.pdf. Accessed 5 September 2011.

212 NSW Government, *Namoi Catchment Management Authority*. www.namoi.cma.nsw.gov.au. Accessed 5 September 2011.

5.5. Building stronger accountability and public reporting against progress

As is evident from the significant number of initiatives outlined in this chapter – many of which have only recently been implemented – a strong commitment has been made by both the federal and state governments to providing Aboriginal children with a good quality education. However, at this stage, the success of many of these initiatives, and their impact on ‘closing the gap’ is yet to be established. Therefore, now, more than ever, it is essential that a robust process for adequately monitoring and reporting on whether we are making progress is put in place.

5.5.1. Existing governance structures that can be utilised

In his recent announcement about the establishment of the Ministerial Taskforce on Aboriginal Affairs, the Minister for Aboriginal Affairs identified education as a key priority.

There are already governance arrangements in place that could support the Ministerial Taskforce in facilitating the implementation of a stronger accountability process in relation to Aboriginal education outcomes. Most notably, the Director General of the Department of Education and Communities chairs the Director General’s Aboriginal Education Advisory Group, which was established several years ago. Of its 21 members, 15 are Aboriginal. The Advisory group includes the Aboriginal Education Consultative Group (AECG). As we noted in section 5.2, the AECG is recognised as the peak consultative group for Aboriginal education issues in NSW, and has recently renewed its longstanding partnership agreement with the NSW Office of Education. The Advisory Group is the main forum through which the partnership agreement is monitored.

We understand that the Advisory Group will be monitoring the work currently being undertaken by the Department in partnership with the AECG to examine the role of HSLOs and ASLOs as part of NSW’s responsibility to lead National Collaborative Action 22 – relating to school attendance – of the national *Aboriginal and Torres Strait Islander Education Action Plan*. The group was also responsible for monitoring and providing advice concerning the Department’s lead role in implementing recent changes to the Education Act that provide for conferencing options to be utilised as an alternative to parental prosecution in relation to habitual school non-attendance.

In addition to the Director General’s Aboriginal Education Advisory Group, every school region in NSW has one or more regional AECG groups consisting of members from local AECGs. It is this network of local and regional groups which makes the AECG one of the strongest Aboriginal community governance structures in NSW. It is also one of the few established to drive progress in relation to an identified priority area. Regional and school staff members may be members of local and regional AECGs as either full or associate members. These groups provide an excellent forum for discussion about local issues, and for monitoring of key data about Aboriginal educational outcomes. Through the state-wide AECG, they also provide an effective conduit between local communities and the Director General’s Aboriginal Education Advisory Group.

We believe that there would be benefit in seeking to further enhance the effectiveness of the Director General’s Aboriginal Education Advisory Group and AECG network. As part of this goal, we believe that better data should be made available to them to improve their capacity to give informed policy and practical advice.

5.5.2. Strengthening internal accountability mechanisms

Earlier in this chapter we noted that the national *Aboriginal and Torres Strait Islander Education Action Plan* identifies six priority areas for national collaboration: school readiness; engagement and connections; attendance; literacy and numeracy; leadership, quality teacher and workforce development; and pathways to post-school options. These areas are aligned with the broader *Closing the Gap* targets. We also observed that the plan has a strong focus on improving accountability. One way that it seeks to achieve this is through public reporting of better data.

While the Productivity Commission’s Overcoming Indigenous Disadvantage reporting framework includes a number of ‘headline indicators’ to assess progress in the area of educational outcomes, the data that is reported is, of necessity, broad. The national *Aboriginal and Torres Strait Islander Education Action Plan* commits state and territory education providers to report data that is more specific to jurisdictional priorities. Through placing a spotlight on identified priority schools, it also aims to facilitate the reporting of more localised data. In this way it provides a much improved framework for the collection and reporting of data in NSW.

However, to facilitate this, more robust internal accountability mechanisms are needed at a state-wide level. At present, the requirements on NSW regional education directors to report against indicators for Aboriginal students are somewhat limited in scope. For example, we understand that there is currently no requirement for regional directors to regularly report on the efforts of principals and regional offices to address issues relating to Aboriginal students in areas such as school non-attendance; literacy and numeracy; significant initiatives and practical

endeavours to improve the engagement of Aboriginal children and families with each school.²¹³ Furthermore, as the Department of Education and Communities has acknowledged, the emphasis in reporting “is often on how resources were used, rather than on the outcomes that were achieved”.²¹⁴ In this regard, existing performance monitoring mechanisms such as school education and regional directors’ performance agreements, regional plans and individual school plans could be strengthened through requiring more regular reporting on, and analysis of, specific data about agreed priority areas.

In our view, there is also considerable scope for NSW to set more time specific and aspirational targets. For example, as we observed earlier, there is a lack of explicit commitment by NSW to close the gap on student attendance rates between Aboriginal and non-Aboriginal students. By contrast, Queensland has committed to do so by 2013,²¹⁵ and in Western Australia, the state Aboriginal Education Plan identifies attendance as a key focus area and commits to achieving attendance rates for Aboriginal students equivalent to those for their non-Aboriginal peers.²¹⁶ The Queensland Government has also committed to achieving some ambitious, time specific goals in the areas of retention and transition to work, including that it will ‘close the gap’ in year 10 to 12 retention rates by 2013’ and ‘transition 90 per cent of Aboriginal and Torres Strait Islander students to employment, education or training within 12 months after completing schooling.’²¹⁷

In addition to ‘big picture’ targets, at a regional and school level in NSW, more specific improvement targets must be set, and data collected in relation to, the following areas:

- Aboriginal student attendance and suspensions
- Aboriginal student literacy and numeracy attainment
- Aboriginal student retention and pathways to post-school employment and training
- use of Education Act interventions and related outcomes, and
- involvement of local Aboriginal people in providing support to students and schools.

It is only through committing to the collection, monitoring and reporting of better data that a proper assessment can be made about whether various commitments and initiatives are achieving the desired results in the area of Aboriginal education.

Finally, in the interests of transparency and the public’s right to information about ‘return on investments’, it is critical that this type of data is not only collected and monitored through the governance structures that we have identified, but that it is also publicly reported.

213 Apart from data collected annually by the Aboriginal Education Directorate.

214 NSW Department of Education and Communities, *Local Schools, Local Decisions*, Discussion Paper, September 2011, p.9.

215 Queensland Government, Department of Communities, Aboriginal and Torres Strait Islander Services, *The LEAP: Learning Earning Active Places Strategy (2011-2014)*. www.communities.qld.gov.au/atsis/government/programs-and-initiatives/leap-learning-earning-active-places-strategy. Accessed 5 September 2011.

216 Western Australia, Department of Education, *Aboriginal Education Plan for WA Public Schools 2011-2014*. www.det.wa.edu.au/policies/detcms/policy-planning-and-accountability/policies-framework/strategic-documents/aboriginal-education-plan-2011-2014.en?oid=com.arsdigita.cms.contenttypes.FileStorageItem-id-11577079. Accessed 5 September 2011.

217 Queensland Government, Department of Communities, Aboriginal and Torres Strait Islander Services, *The LEAP: Learning Earning Active Places Strategy (2011-2014)* located at www.communities.qld.gov.au/atsis/government/programs-and-initiatives/leap-learning-earning-active-places-strategy. Accessed 5 September 2011.

Chapter 6: Building economic capacity in Aboriginal communities

What needs to change

- Establish a body with overall responsibility for improving Aboriginal employment outcomes and enhancing Aboriginal economic capacity through identifying and facilitating partnerships between the private sector, government and Aboriginal entities to create successful commercial enterprises.
- Review the existing range of federal and state employment and economic development initiatives as part of developing an integrated, state-wide strategy to build the economic capacity and wealth of Aboriginal people in NSW. In developing a state-wide strategy, particular attention should be given to:
 - the specific challenges associated with enhancing economic capacity and employment opportunities in disadvantaged and/or rural and remote locations.
 - identifying and expanding vocational education, job training and mobility/relocation assistance programs that are achieving real employment outcomes for Aboriginal people.
 - exploring opportunities for further partnering with Aboriginal job service providers in relation to the above.

Closing the Gap recognises the crucial importance of improving the employment prospects of Aboriginal people and building viable economies in rural and remote communities. The Council of Australian Governments (COAG) has committed to halving the gap in employment outcomes for Indigenous and non-Indigenous Australians within a decade. The Premier and Minister for Aboriginal Affairs have acknowledged the importance of placing “economic... empowerment front and centre” of efforts to overcome Aboriginal disadvantage, and have “committed to increasing Aboriginal employment and economic participation opportunities”.²¹⁸ Increasing the economic prosperity of Aboriginal people in this state is directly relevant to achieving gains in other areas such as health, education, and child protection.

There is a strong relationship between educational outcomes and employment prospects. A vicious cycle currently exists in which poor educational outcomes lead to poor employment outcomes. However, to be motivated to engage in schooling, Aboriginal students need to have tangible employment prospects to strive towards. Despite more Aboriginal students finishing Year 12 and an increase in enrolments of Aboriginal people at TAFE, there is still a significant gap in their employment prospects compared to the non-Aboriginal population. This can be attributed in part to the poorer levels of literacy and numeracy attained by Aboriginal students by the time they leave school, as well as the limited employment opportunities available to Aboriginal people living in rural and regional centres.²¹⁹

In 2010, while the unemployment rate for all NSW residents was 5.5%, the unemployment rate for Aboriginal people in NSW was three times higher.²²⁰ According to the 2006 census, the rate was highest in Northern NSW (23.5%) and Western NSW (22.4%) with certain locations rising as high as 36.1% (Murray-Darling) and 30.4% (New England).²²¹ In light of the high proportion of the Aboriginal population under the age of 15 and the rapid rate at which this cohort is predicted to grow, an immediate priority must be to identify better pathways by which young Aboriginal people can gain and sustain employment.

For the 2008-2009 period, Aboriginal expenditure in NSW on labour and employment services amounted to only \$78 per Aboriginal person. By contrast, \$3,817 was spent per Aboriginal person on public order and safety.²²² Earlier this year, the Minister for Aboriginal Affairs asked his agency to review 10 Aboriginal employment programs. The review will involve assessing the number of job placements, traineeships and cadetships against the overall cost of running these programs. In announcing the review, the Minister stated that “we need to be investing more in education and employment services so that we are spending less on public order.”²²³

218 Honourable Barry O’Farrell MP, Premier of NSW and Minister for Western Sydney and Honourable Victor Dominello MP, Minister for Aboriginal Affairs, *Audit report shows Labor failed Aboriginal communities*, Media release, 18 May 2011.

219 During the period 2003 to 2008, the number of Aboriginal students achieving a Year 12 certificate more than doubled. TAFE enrolments, between 2004 and 2008, increased by 42%. NSW Department of Human Services, Aboriginal Affairs NSW, *Two Ways Together Report on Indicators 2009, 2010*.

220 NSW Auditor-General, *Performance Audit Report on Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011.

221 Australian Government, *SkillsInfo*. www.skillsinfo.gov.au. Accessed 22 August 2011.

222 Honourable Victor Dominello MP, Minister for Aboriginal Affairs, *Minister for Aboriginal Affairs announces review of jobs programs*, Media release, 27 June 2011.

223 Patty, Anna, ‘Review to target Aboriginal job programs’, *Sydney Morning Herald*, 25 June 2011.

In this chapter we outline the major non-government, federal, and state initiatives in the area of employment and economic development, and describe some of the main challenges to achieving greater success in these areas. We also discuss the significant opportunities that exist to capitalise on the strengths of many Aboriginal communities.

6.1. The role of Aboriginal entities

There are a number of government and non-government Aboriginal entities that play an important role in facilitating better employment and economic development opportunities for Aboriginal people and communities. A number of these are outlined in the following section:

6.1.1. Aboriginal Employment Strategy

The Aboriginal Employment Strategy (AES) was established in 1997 to create Indigenous career opportunities. It is a national not-for-profit organisation, and is managed and staffed entirely by Aboriginal and Torres Strait Islander employees.²²⁴ The AES receives support from the Federal Government, and has a number of corporate partners including ANZ, Commonwealth Bank, Westpac, NAB, Telstra, Qantas and Woodside.²²⁵

The AES operates a recruitment service, matching job vacancies to Indigenous career seekers, and providing mentoring support to employees. Since 2002, they have also operated an accredited Group Training Organisation, which specialises in providing School Based Traineeships.²²⁶ In the three years prior to 2011, the AES was responsible for delivering more than 5,500 skilled job seekers into long term employment around Australia.²²⁷

6.1.2. The NSW Aboriginal Land Council and network of Local Aboriginal Land Councils

As we noted in Chapter 3, the NSW Aboriginal Land Council (NSWALC) is the largest self-funded Aboriginal representative organisation in Australia, and as such, has a key role to play in creating economic opportunities for Aboriginal people in NSW. A statutory investment fund was initially established under the *Aboriginal Land Rights Act 1983* as compensation for land lost by Aboriginal people.²²⁸ As at 30 June 2010, the value of the Statutory Investment Fund was \$554 million.²²⁹

The NSWALC has a mandate under its *Corporate Plan 2008-2012* to develop community-based Aboriginal employment strategies; promote the development of initiatives which enhance Aboriginal employment and training outcomes; identify suitable and viable commercial enterprise opportunities for Aboriginal people; and pursue partnerships with key industry groups to build commercial and economic sustainability for all Aboriginal people, not just those involved in land councils.²³⁰

Similarly, the network of 121 Local Aboriginal Land Councils (LALCs) that NSWALC services are required by the Act "to improve, protect and foster the best interests of all Aboriginal persons within the council's area and other persons who are members of the Council".²³¹ The Act requires individual LALCs to develop and implement community, land and business plans which include commitments to maximise the potential for economic, social and cultural growth at the local level. They also commit LALCs to maintaining and strengthening existing partnership arrangements with relevant stakeholders.²³²

While a number of LALCs have had a considerable degree of success in developing economic opportunities, others have been less successful. As a result, many LALCs have difficulty meeting their financial and reporting obligations. NSWALC has a responsibility to support underperforming LALCs and supervise them more closely.²³³ A major impact on NSWALC's annual budget is therefore the direct funding that it provides to LALCs to assist with their administrative costs. Indirect funding to the land rights network accounts for a considerable amount of the balance.

A number of the stronger performing LALCs have significant land holdings across the state, including valuable land in coastal areas. In 2004, the NSWALC set up a specialist 'Commercial Unit' in recognition of the need for the

224 Aboriginal Employment Strategy Ltd. www.aes.org.au. Accessed 5 September 2011.

225 Aboriginal Employment Strategy Ltd, *AES Capability Statement*, p.1. www.aes.org.au. Accessed 5 September 2011.

226 Aboriginal Employment Strategy Ltd www.aes.org.au. Accessed 5 September 2011.

227 Aboriginal Employment Strategy Ltd, *AES Careers Report*, p.2. www.aes.org.au. Accessed 5 September 2011.

228 From 1 January 1984 to 31 December 1998, the Act provided for guaranteed funding through the payment of an amount equivalent to 7.5 per cent of NSW Land Tax (on non-residential land) to NSWALC. During this period, half of the funds were available for land acquisition and administration. The remainder was deposited into a statutory account to build a capital fund to provide ongoing funding in the future.

229 NSW Aboriginal Land Council, *Annual Report 2009-2010*, p.62.

230 NSW Aboriginal Land Council *Corporate Plan 2008-2012*, p.11.

231 *NSW Aboriginal Land Rights Act 1983*, section 51: Objects of Local Aboriginal Land Councils.

232 NSW Aboriginal Land Council, *Annual Report 2009-2010*, p.40.

233 NSW Aboriginal Land Council, *Annual Report 2009-2010*, p.63.

sustainable development and management of this land base. The Unit is capable of providing professional and timely advice to NSWALC and the LALCs on issues including property development, commercial and residential management, and business skills. As illustrated below, there are a number of LALCs which have led the way in developing land holdings for the benefit of their community.

Profile: Enterprises established by Local Aboriginal Land Councils

Worimi Local Aboriginal Land Council

Despite operational hardships throughout the 1990s, Worimi LALC has developed a number of sustainable economic ventures. A license agreement with the Minister for Environment has enabled Worimi to charge tourism operators for activities on their land. Worimi has also started its own tourism enterprise – ‘Stockton Sand Dune Adventures’ – which provides nine full-time and part-time jobs for Aboriginal people.²³⁴

Worimi has recently completed a comprehensive tendering process to identify an appropriate partner to undertake sand extraction on two parcels of land. We were advised by the Worimi CEO that the sand extraction project has the potential to provide income to the LALC for the next 70 years.

Darkinjung Local Aboriginal Land Council

The Darkinjung LALC has been involved in the development of some of their land at Blue Haven into a 108 lot residential development.²³⁵ In 2010, they became the first LALC to gain approval from the NSW Government for a significant development under Part 3A of the *Environmental Planning and Assessment Act 1979*²³⁶ for their Bushells Ridge site.

Darkinjung also provides social housing and a funeral fund, and is currently conducting consultations regarding the development of a Cultural and Community Centre.²³⁷ Darkinjung provides a focal point in the area for Aboriginal issues, and supports cultural and heritage events such as the Central Coast Education Pathway Awards, Five Lands Walk, and Cultural Affirmation Programs.²³⁸

Gandangara Local Aboriginal Land Council

The Gandangara LALC has recently released a \$1 billion plan for a major development at Heathcote Ridge.²³⁹ Gandangara has used its assets to establish a range of projects for the benefit of the community, including an employment service, a medical centre, and a housing service.

Gandangara has also created a joint venture not-for-profit organisation, Sydney Aboriginal Services Ltd (SASL). SASL currently services the operational needs of four LALCs, and is rapidly growing into one of the largest Aboriginal management companies and service providers in Australia.²⁴⁰

The NSWALC has also recently joined the Macquarie Group Foundation and other commercial and enterprise partners to support Social Enterprise Finance Australia (SEFA).

SEFA was established to provide financial services to the social enterprise sector in Australia. In August, the federal Government Department of Employment, Education and Workplace Relations (DEEWR) announced that it would provide \$10 million from its Social Enterprise Development and Investment Fund to help establish SEFA. This has been matched with \$10 million from the consortium of equity investors and commercial lenders, including NSWALC.

While not an Indigenous-specific organisation, SEFA will have three sub-funds, one of which will be for Aboriginal and Torres Strait Islander applicants. SEFA will provide loans to organisations who can demonstrate social and community benefit as a primary motivator, and will also provide mentoring support for the term of their loan, helping recipients build the skills to manage their debt and to become financially sustainable.²⁴¹

234 Worimi Local Aboriginal Land Council, *The Aboriginal Land Rights Act 1983 (NSW) – Looking Ahead*, Presentation by Andrew Smith, March 2011.

235 Darkinjung LALC, *Bandimayiya, The Messenger, Darkinjung News*, Vol 1, Issue 8, May 2011.

236 Part 3A projects are developments that are of State or regional environmental planning significance. In practice, Part 3A projects are usually large government infrastructure projects, such as roads, pipelines, but can also include large private developments which are not carried out by a public authority. http://www.edo.org.au/edonsw/site/factsh/fs02_3_2.php.

237 Darkinjung LALC, *Bandimayiya, The Messenger, Darkinjung News*, Vol 1, Issue 8, May 2011.

238 Darkinjung LALC, *Bandimayiya, The Messenger, Darkinjung News*, Vol 1, Issue 2, July 2009.

239 Gandangara Local Aboriginal Land Council, *Heathcote Ridge: A new Horizon. A new model for sustainable development*. www.heathcoteridge.com.au/who-we-are/. Accessed 26 July 2011.

240 Gandangara Local Aboriginal Land Council, *GLALC Newsletter*, Edition 1, 2010. www.glalc.org.au/WhatsOn/JobsatGLALC/tabid/944/articleType/ArticleView/articleId/885/Gandangara-Playgroups-Project--Supported-Playgroup-Worker.aspx. Accessed 7 September 2011.

241 Social Enterprise Finance Australia (SEFA). *SEFA Loan Fund To Commence Operations Following Injection of \$20 million in Australian Government and Private Sector Funding*, Media release. 9 August 2011.

6.1.3. Indigenous Business Australia

Indigenous Business Australia (IBA) is a body corporate which was established in 1990 under the Commonwealth *Aboriginal and Torres Strait Islander Commission (ATSIC) Act 1989* (and subsequently under the *Aboriginal and Torres Strait Islander Amendment Act 2005*) to assist and enhance Indigenous self management and economic self sufficiency.²⁴²

IBA's role is to identify and pursue opportunities that enable Indigenous Australians to create wealth, accumulate assets and achieve their financial aspirations, through partnering with Indigenous Australians, government agencies, private sector businesses and industry.²⁴³ The programs that it administers include the Home Ownership Program, which provides concessional home loans to eligible Indigenous Australians who wish to purchase a property, construct and/or improve a home; and the Home Ownership on Indigenous Land Program, which provides similar loans in relation to community titled land.

IBA also runs the Indigenous Small Business Development Program, which provides assistance to Indigenous Australians to establish viable businesses.²⁴⁴

In addition, IBA invests in a range of commercial ventures including commercial property, manufacturing, mining and mine services, primary industries, retail supermarkets and tourism and hotel accommodation. The criteria used by IBA to assess the viability of its investments includes consideration of the potential for Indigenous employment and training opportunities, as well as opportunities for Indigenous people to participate in, or take control over, the management of businesses.²⁴⁵

6.1.4. Indigenous Land Corporation (ILC)

The Indigenous Land Council (ILC) is a federal statutory authority which was established in 1995. Its role is to help Indigenous people acquire and manage land in order to achieve economic, environmental, social and cultural benefits. Indigenous corporations can apply for land acquisition under two categories: cultural and environmental values, and socio-economic development. Pastoral development and tourism are considered focus areas. The ILC can lease a property to an applicant group for up to three years and during this period, the applicant group is responsible for:

- managing and maintaining the property
- delivering benefits to communities by using the land
- developing a comprehensive property plan
- building further capacity if required, and
- establishing and maintaining good governance.

The ILC 'grants' the property when it is satisfied that the applicant group can meet its stated criteria. It conducts annual reviews, including bi-annual visits, to ensure the property is being used for the intended purpose.²⁴⁶

The National Indigenous Economic Development Strategy (discussed in the next section) commits the Federal Government to support the IBA and ILC to undertake more joint ventures with Indigenous businesses.²⁴⁷

6.2. Major federal initiatives

The National Partnership Agreement (NPA) on Indigenous Economic Participation is part of the broader National Indigenous Reform Agreement. In 2009, an implementation plan for the NPA on Indigenous Economic Participation was agreed to between the federal and NSW governments. The COAG Reform Council's 2009-2010 performance report on the National Indigenous Reform Agreement provides a snapshot of reforms achieved under the NPA on

242 Indigenous Business Australia (IBA). www.iba.gov.au. Accessed 25 July 2011.

243 In 2009-2010, IBA received \$38.8 million in federal government funding and generated \$132m in revenue. IBA, *Annual Report 2009-2010*, p.12. www.iba.gov.au. Accessed 25 July 2011.

244 For the period 1 July 2005 to 30 June 2010, IBA approved 429 business loans totalling over \$73 million. IBA, *Development and Assistance Fact Sheet* valid to October 2010. www.iba.gov.au. Accessed 25 July 2011.

245 There are 26 investments listed as 'current' on the IBA portfolio profile – four of these are in NSW. They include Port Botany Transfer Station, Inverell Stockfeed Manufacturing Plant, Cummeragunga Farm – a mixed freehold farm adjacent to the Murray River, and Mungo Lodge in Mungo Mungo National Park. www.iba.gov.au. Accessed 25 July 2011.

246 By June 2010, the ILC had acquired 51 properties in NSW (231 properties have been acquired nationally). Properties acquired and granted in NSW include Merriman Station at Brewarrina and the National Centre for Indigenous Excellence in Redfern. In 2009-2010, the ILC granted 14 properties to Indigenous corporations – one of these was an Aboriginal aged care program in Redfern, NSW. www.ilc.gov.au. Accessed 25 July 2011).

247 Department of Families, Housing, Community Services and Indigenous Affairs, *Indigenous Economic Development Strategy — Action Plan 2010-2012*, 2010.

Indigenous Economic Participation. The report includes information on the progress made against the actions contained in the NSW implementation plan; however, it does not provide, in any detail, the outcomes associated with these actions.²⁴⁸

The Federal Government's current goal is to create more than 100,000 jobs for Indigenous Australians by 2018.²⁴⁹ In August this year, the Minister for Indigenous Employment and Economic Development announced that through the Indigenous Employment Program, 31,000 job and training opportunities had been secured for Indigenous people in the previous financial year.²⁵⁰ The Minister also announced the establishment of a Remote Employment Services Panel to identify ways to make employment services for Indigenous jobseekers in remote areas more streamlined and flexible.²⁵¹

In addition, the Federal Government has made significant investments in working with the private sector; for example, requiring government contractors to incorporate Indigenous businesses in their 'supply chain' and partnering with the minerals industry to provide sustainable economic opportunities in remote Indigenous communities. DEEWR also directly supports a number of major Indigenous industry and business engagement initiatives, including the private sector led Australian Employment Covenant²⁵² and the Indigenous Employment Program, which provides expertise and practical support to business leaders to improve education and employment outcomes for Indigenous Australians within their organisations.²⁵³

Although not Indigenous-specific, Regional Development Australia (RDA) is also an important player in relation to building economic capacity. It is an initiative of the Federal Government under the Department of Regional Australia, Regional Development and Local Government. The RDA aims to "bring together all levels of government to enhance the growth and development of Australia's regions." It consists of a network of regional committees, including representatives of community, business and local government, which are expected to "promote economic and employment growth and contribute to business development and investment attraction".²⁵⁴ RDA committees develop and lead the implementation of regional plans. These plans are intended to bring together strategies and actions at all levels of government as well as business and community.

We have examined the RDA regional plans for Far West and Orana, both of which include a range of cultural, environmental and agricultural initiatives aimed at building economic capacity. Both plans include a focus on Aboriginal specific projects, reflecting the demography of the regions. The plans are informed by the NSW Government's Regional Business Growth Plans as well as local government plans. These business growth plans are discussed in section 6.4.

Job Services Australia (JSA) was launched by the Federal Government in 2009 to increase employment participation, and to help job seekers, particularly disadvantaged job seekers, to find sustainable employment. JSA contracts over 300 providers to deliver employment services in more than 2,000 Australian cities and rural and remote locations. Some JSA providers are Indigenous specialists, including the Murdi Paaki Regional Assembly which delivers services to a number of locations in NSW.

The *Strategic Review of Indigenous Expenditure*, completed in February 2010, recommended to the Federal Cabinet that a *National Indigenous Economic Development Strategy* be finalised to sit within the Indigenous Economic Development Framework. The consultation draft was released on 24 May 2010. While the consultation period closed at the end of 2010, the strategy has not yet been finalised.²⁵⁵

One of the draft strategy's five key focus areas is 'business and entrepreneurship.' In this regard, the draft strategy commits governments to encouraging corporate enterprises to develop productive relationships with Indigenous people and local employment service providers; building relationships with employers through representative peak bodies as a way of obtaining intelligence about the labour market and industry specific approaches to training; and matching employment supply with demand in regions that are experiencing skills shortages. The draft strategy also commits the Federal Government to work with Indigenous groups to better leverage existing assets and encourage

248 The latest DHS annual report does not provide any details about the implementation of the bilateral agreement or DHS's role in leading the taskforce to-date for NSW.

249 Honourable Mark Arbib MP, Minister for Indigenous Employment and Economic Development, *Minister Calls on Local Government to strengthen Indigenous Employment*, Media release, 26 July 2011.

250 Honourable Mark Arbib MP, Minister for Indigenous Employment and Economic Development, *Successful Indigenous Employment Program to Further Strengthen Job Outcomes*, Media release, 10 August 2011.

251 Honourable Mark Arbib MP, Minister for Indigenous Employment and Economic Development, *Minister meets Remote Employment Services Panel*, Media release, 26 July 2011.

252 Department of Education, Employment and Workplace Relations. www.deewr.gov.au, Accessed 23 August 2011.

253 Department of Education, Employment and Workplace Relations. www.deewr.gov.au, Accessed 23 August 2011.

254 Regional Development Australia, *Regional Development Australia – What is it? Roles and Responsibilities*, September 2009. www.rda.gov.au/about/files/RDA_National_Roles_Responsibilities.pdf. Accessed 15 September 2011.

255 Department of Families, Housing, Community Services and Indigenous Affairs, *Indigenous Economic Development Strategy: 2010-2012* (Draft for consultation). www.resources.fahcsia.gov.au/IEDS/. Accessed 19 September 2011.

business investment in Indigenous businesses and in commercial opportunities in remote locations. As well, the draft strategy states that the Federal Government will continue to support the IBA and ILC to undertake more joint ventures with Indigenous businesses.

The draft strategy identifies several areas of 'competitive advantage' that exist for many Indigenous Australians collectively:

- land holdings (including land owned by Indigenous people, land held by the ILC and native title rights) and associated resources (including access to water, minerals and areas with a high biodiversity value)
- strong social networks and community identity
- traditional and cultural knowledge
- cultural tourism, natural resource management and arts industries, and
- proximity to regional opportunities such as mining.

The draft strategy aims to build on these areas of competitive advantage, where they exist, to maximise opportunities for Indigenous Australians to participate in the broader economy.

The draft strategy notes that an 'action plan' will be developed to track progress against the identified actions and that progress will be reported every two years. Although the strategy has not been finalised, an interim 'action plan' has been developed and released.²⁵⁶ The 'action plan' nominates partner agencies for each of the priorities and actions, but does not outline the specific roles of the states and territories (in addition to those of the Federal Government). The *Strategic Review of Indigenous Expenditure* recommended that the (final) strategy should include this type of information.

6.3. NSW Government initiatives

Improving economic opportunities for Aboriginal people is a priority under *NSW 2021* and *Two Ways Together*. There are a range of initiatives which are implemented by the NSW Government to achieve this priority. Some of these are NSW funded initiatives, while others attract federal funding through DEEWR. The initiatives are reflected in the implementation plan developed by NSW under the NPA on Indigenous Economic Participation.

They include:

- Improving the transition of Aboriginal students from school to work and increasing their rate of vocational educational attainment.
- Increasing the employment of Aboriginal people in the public sector (through the *Making It Our Business* initiative) to achieve representation of at least 2.6%.
- Increasing the employment of Aboriginal people in the private sector through government procurement (including through the Aboriginal Participation in Construction Guidelines).
- Encouraging business and industry to identify employment opportunities and address barriers to Aboriginal employment through entering into 'job compacts' with the NSW Government and Aboriginal groups in local communities.
- Offering 'business development services' to Aboriginal people through the Department of Trade and Investment, Regional Infrastructure and Services.²⁵⁷
- Establishing the NSW Economic Development Officer Network in 2009-2010. The network is comprised of 10 Economic Development Officers (EDOs) who support and encourage Aboriginal people and communities to generate self-employment and sustainable business opportunities. EDOs also provide networking opportunities between Aboriginal people and the private sector through Job Compact locations.²⁵⁸ According to advice provided recently by the Office of Aboriginal Affairs, between February 2010 and June 2011, the EDO network has facilitated 61 business workshops involving over 1,000 Aboriginal people; 78 new Aboriginal owned and operated businesses have been established; a further 315 Aboriginal owned and operated businesses have been assisted, and 145 new jobs for Aboriginal people were created by EDO supported businesses.

²⁵⁶ Department of Families, Housing, Community Services and Indigenous Affairs, *Indigenous Economic Development Strategy: Action Plan 2010-2012*. www.resources.fahcsia.gov.au/IEDS/. Accessed 20 September 2011.

²⁵⁷ The NSW Department of Trade and Investment, Regional Infrastructure and Services was created by the current NSW Government in April 2011.

²⁵⁸ The EDO Network is jointly funded by the NSW and Federal Governments and plays an important role in supporting Aboriginal businesses. The ten EDO positions are located in Sydney, Dubbo, Newcastle, Tamworth, Wagga Wagga, Illawarra, Parramatta, Mount Druitt and Lismore. A specialist EDO focused on tourism is located at Tourism NSW in the Rocks.

Profile: EDO Network – helping an Aboriginal business to diversify

Koori Communications and Training Pty Ltd provides a wide range of services including training and recreational programs for Aboriginal youth, writing funding and sponsorship submissions for Aboriginal communities and supporting organisations to implement Aboriginal programs. It also has a communications arm which assists organisations develop or enhance their communication strategies.

Recently, the company wanted to diversify by entering the tourism industry. It was looking to promote its Catch'n'Cook tours as a trial tourism product to the domestic, international and corporate sectors. The company was keen to brand the tours as a 'unique bush tucker, recreational and cultural experience'.

Following consultations with the company directors, the EDO for the Coastal Sydney region arranged a joint meeting with Indigenous Business Australia (IBA), the EDO for Tourism NSW and the company to discuss avenues of business support. IBA assigned a business consultant to the company with tourism industry experience to develop their business plan and mentor the company directors.

The EDO was also instrumental in helping the company secure financial assistance from the NSW Department Trade and Investment, Regional Infrastructure and Services for the company's website. The EDO also recommended a women's business network to support and enhance the company directors' business management and conflict resolution skills.

Many NSW government agencies have also set clear targets for increasing their Aboriginal workforce and have worked in partnership with schools, TAFE and DEEWR to develop transition-to-work programs. One of the most promising is the IPROWD program profiled below.

Profile: Encouraging Aboriginal people to acquire the skills needed to join the NSW Police Force

IPROWD is a partnership between the NSW Police Force (NSWPF), TAFE NSW and the Federal Government that provides a customised training program to assist Aboriginal people to gain entry to the NSW Police College at Goulburn, which is the first step to becoming a police officer. It was originally established in the Western region, with a state-wide rollout commencing this year. The program has strong linkages with Aboriginal communities, and has community partnerships in place to assist students with accommodation and support needs. In 2011, over 120 Aboriginal people are participating in IPROWD programs in Casino, Dubbo, Macquarie Fields, Maitland, Mount Druitt, Nowra, Orange, Redfern and Tamworth.²⁵⁹ IPROWD includes a two year mentoring component, with participants supported from their acceptance into the program, right through until their confirmation as a Constable. This component is fundamental to the success of IPROWD, and is a significant reason for the program's high retention rates. To date, 68 IPROWD students have graduated and ten IPROWD graduates have joined NSWPF as either sworn or unsworn officers.²⁶⁰

While it is hoped that a significant proportion of IPROWD participants will go on to join the NSWPF, it is essential that those who do not are targeted by other government agencies, given that they have already developed a strong skill-set through their involvement in the program. This will require the partner agencies to develop a coordinated referral process with other government agencies that sits outside of the formal program. The IPROWD model could also be adapted for other public sector agencies and be delivered by various training providers. In this regard, there is potential to expand the delivery of IPROWD – or similar programs – into community colleges.

For example, Western College and other community colleges in Western NSW, have a strong emphasis on reaching out to a diverse group of people to assist them to improve their educational skills to enhance their employment prospects. The colleges are not for profit organisations, with boards made up of community members and local business people, and focus strongly on social inclusion. This is reflected in the high enrolment rate (close to 40%) of Aboriginal people at Western College. In addition, 76% of students who completed certificate 1 and 2 level courses in 2010 were Aboriginal.²⁶¹ While expanding IPROWD or other similar programs into community colleges has the potential to reach a greater number of Aboriginal people, it is important to recognise that this would require appropriate funding.²⁶² Given the benefits that would flow to the public and private sector if larger numbers of Aboriginal people were able to access a well developed program of this type, it would be worthwhile exploring

²⁵⁹ TAFE NSW. www.iprowd.tafensw.edu.au. Accessed 30 August 2011.

²⁶⁰ NSW Police Force intranet. Accessed 30 August 2011.

²⁶¹ NSW Department of Education and Communities, Adult and Community Education Unit, *ACE Enrolment Completions 2010*.

²⁶² We understand that community colleges do not receive funding commensurate with their annual Commonwealth student contact hour target rate. Advice provided by the Chief Executive Officer of Western College, 29 September 2011.

whether the requisite funding could be sourced through a government/private sector partnership that is strongly focused on placements in real jobs.

Finally, the former Department of Trade and Investment has also developed 'regional business growth plans' which align with Regional Development Australia's network of committees in NSW (described in section 4.6.2 above). The plans are designed to stimulate economic growth and address barriers to business investment. They include strategies for promoting sustainable growth through identifying infrastructure, land use and planning needs. In this regard they are similar to the RDA action plans.

However, only two of the 13 regional business growth plans – Orana and Far West – identify Aboriginal business development as a key strategy.²⁶³ While the plans identify 'high priority and high impact initiatives' to support Aboriginal business development (e.g. in Far West, supporting the COAG Remote Service Delivery pilot) together with information about the regions' demography and existing infrastructure and resources, they do not contain specific actions to deliver the priorities.

6.4. The need for an overall state-wide strategy

The broad range of federal and state initiatives outlined above demonstrates that there is a commitment to improving the economic capacity and employment opportunities of Aboriginal people in NSW. While the NSW Government has acknowledged the importance of achieving real outcomes in this area, what is not clear is how many of the current activities have delivered substantial results. Furthermore, there does not appear to be a coherent, overall plan for building Aboriginal economic capacity across the state. Without such an overall plan, there is a risk that many of the endeavours that we have outlined in this report, may not result in solid dividends against the investment.

Any plan will need to target increasing Aboriginal participation in economic activities. This will be difficult to achieve unless a stronger partnership is forged between Aboriginal representative bodies and the private sector. In this regard, the draft National Indigenous Economic Development Strategy highlights that Aboriginal people and communities have a range of 'advantages' in areas such as cultural tourism, sustainable land and natural resource management and arts industries, that could be better capitalised for economic and social gain. There are a number of Aboriginal bodies and corporations of various sizes across the state – some well-established and others emerging – which have the potential to develop into robust economic entities. This potential must be realised. One role that government could play in developing a state-wide strategy is to facilitate a closer interface between Aboriginal entities and major business figures and enterprises.

Building economic capacity also requires making sure that Aboriginal people are equipped with the necessary skills to participate in a broad range of employment and business fields. For this reason, there needs to be a strong emphasis in the planning of practical initiatives that encourage Aboriginal people to access school-to-work transition programs and relocation support, as well as professional college/TAFE bridging courses which are linked to real job outcomes.

Developing an overall economic capacity strategy is one thing; making sure that it is implemented is another. In our view, for any strategy of this kind to be successful, it needs to be driven by a body with the necessary skills, expertise and clout for it to be able to deliver outcomes through solid partnerships with Aboriginal leaders and private sector agents.

6.4.1. Designating responsibility for leading the strategy's implementation

The absence of a body with overall responsibility for Aboriginal employment and economic capacity in NSW creates a high risk of a 'piecemeal' approach to addressing one of the major underlying causes of Aboriginal disadvantage.

The Department of Trade and Investment, Regional Infrastructure and Services' role is to "drive sustainable economic growth in NSW through working with and supporting businesses and industries across the state to advance investment, innovation, activity and improvements across all business sectors".²⁶⁴ However, notwithstanding the support it offers to Aboriginal businesses and job seekers, the department does not appear to have a specific focus on the interrelated areas of Aboriginal employment and economic development. While it administers the Job Compacts and EDO programs, the Office of Aboriginal Affairs does not have a broader mandate in relation to this critical area (and nor does it have the requisite degree of authority in this area).

In the same way that the NSW Government has recognised, through the recent establishment of Infrastructure NSW, that private sector expertise was needed for the successful delivery of major state infrastructure projects, it is

²⁶³ Each region has a community participating in the Remote Service Delivery program.

²⁶⁴ NSW Department of Trade and Investment, Regional Infrastructure and Services, www.trade.nsw.gov.au. Accessed 15 September 2011.

also essential that a strategic body is established which enables the private sector to partner with government and Aboriginal communities, to identify ways to maximise mutually beneficial economic opportunities.²⁶⁵

The lack of an obvious integrated state-wide strategy by government has meant that, despite a growing commitment by the private sector to partner with Aboriginal communities (demonstrated through major initiatives such as the Aboriginal Employment Covenant and Generation One),²⁶⁶ we have not been able to fully capitalise on the willingness of the private sector to make a real difference in this state in relation to Aboriginal participation in economic endeavours. It has also meant that the potential return on investments made by the Federal Government have been minimised as a result of broader structural weaknesses at a state level (for example, implementing 'job readiness' programs for young people in locations with depressed economies without creating pathways to employment with various sectors and/or greater access to job mobility programs).

A further structural weakness inhibiting economic development in Aboriginal communities has been the overall lack of vision and duplicated planning processes at the regional level – this is due to the existence of two separate regional planning mechanisms: the NSW regional business growth plans developed by the former Department of Industry and Investment; and the plans developed by the network of Regional Development Australia committees.

In addition, there are also distinct planning and governance arrangements in place dealing with economic capacity and employment in relation to the Regional Partnership Agreements that are aimed at bringing the federal and state governments and Aboriginal communities together for the purpose of pursuing identified priorities in specific regions (all four NSW agreements have a focus on economic capacity and employment.)²⁶⁷ While the various initiatives contained in the regional plans and partnership agreements have merit, the fact that the associated planning processes are not brought together as part of a broader regional plan for developing the economic capacity of Aboriginal communities, is illustrative of the lack of a coherent and strategic approach to this issue. However, it is important to note that the Government's decision to allocate specific responsibility for six regions²⁶⁸ to individual Ministers, provides a much stronger platform for improved strategic planning in connection with this issue.

If, as we have suggested, a coordinating body is established to drive Aboriginal employment and economic capacity initiatives, it could potentially provide the lead in a number of critical areas including those that we discuss below.

6.4.1.1. Small business enterprises

In many of the Aboriginal communities in remote and rural NSW that we have visited, we have observed low levels of Aboriginal involvement with local businesses. Our consultations with Aboriginal communities elsewhere have revealed that NSW is some way behind other states and territories, such as Western Australia, the Northern Territory and Queensland, in establishing Aboriginal-owned local businesses such as grocery stores, motels and fuel stations. In NSW, there appears to be no current strategy for identifying and facilitating these types of opportunities across the state. This is despite communities understandably complaining to government agencies about the very expensive cost of goods and services in remote towns, including basic essentials such as food.²⁶⁹

265 Infrastructure NSW plays a key role in coordinating and facilitating cooperation with other government agencies and the private sector. The Infrastructure NSW Board sets the strategic policy and direction for Infrastructure NSW. The Board includes five private sector representatives and is responsible for overseeing a 20 year State Infrastructure Strategy. The Honourable Barry O'Farrell, NSW Premier and Minister for Western Sydney, NSW Parliament Legislative Council Hansard, 26 May 2011.

266 GenerationOne is a not-for-profit organisation that was founded by Andrew and Nicola Forrest as a movement for change. Financial support was provided to create a movement that would show the importance of education, training, mentoring and employment as the best means for ending the disparity between Indigenous and non-Indigenous Australians. The Foundation Supporters were the Forrests, James Packer and Kerry Stokes with further significant support from the Lowy and Fox families. GenerationOne works closely with its sister organisations - Australian Employment Covenant (AEC) which aims to gain commitments of 50,000 jobs for Indigenous Australians and the P-Plate program which links those AEC commitments with school children. (Generation One. www.generationone.org.au. Accessed 10 September 2011).

267 Department of Families, Housing, Community Services and Indigenous Affairs. www.fahcsia.gov.au. Accessed 25 August 2011.

268 There are Ministers with specific responsibility for Central Coast, Hunter, Illawarra, North Coast, Western Sydney, Western NSW.

269 In several communities in Cape York, Aboriginal councils have taken on ownership of a number of community stores and have either started, or are developing, agricultural programs for generating local produce.

The IBA's website does not currently list any businesses in NSW – the state with the largest Aboriginal population – yet it has substantial investments in other states. The ILC currently has a 'portfolio' of 15 businesses; however, none are located in NSW.²⁷⁰ Against this background, there would appear to be merit in the NSW Government seeking to explore how Aboriginal people in this state might be able to work with these organisations to create business opportunities. It will also be important to track the success of NSWALC's recently formed partnership with Social Enterprise Finance Australia (SEFA). One of SEFA's functions is to provide support to Aboriginal organisations to establish businesses that can demonstrate broad social and community benefits.

6.4.1.2. Large-scale enterprises

While increasing job opportunities and providing Aboriginal people with the chance to participate in small business enterprises is important, given the resources behind particular Aboriginal entities, there is the scope to build major Aboriginal business enterprises through establishing, and capitalising on, joint venture arrangements with 'big business'. The Federal Government has recognised the importance of working in partnership with the corporate sector by recently establishing an Indigenous Business Advisory Policy Group to provide advice on what is needed to support growth of the Indigenous business sector. The group includes a number of Indigenous business and research experts as well as CEOs of major corporations.²⁷¹

In parts of this state where large numbers of Aboriginal people live, there are commercial enterprises in sectors such as mining, land management and agriculture that could provide employment and investment opportunities for Aboriginal entities. For example, there should be significant opportunities for Aboriginal entities in NSW to better capitalise on economic capacity opportunities which exist in the mining sector (particularly given that NSW contains 42% of Australia's economic demonstrated coal reserves, as well as an abundance of mineral resources.)²⁷² However, the lack of a strategic body in NSW with overall responsibility for Aboriginal employment and economic capacity inhibits the scope for facilitating strategic partnerships between Aboriginal entities and private sector enterprises in these and other sectors. The NSWALC has already identified a range of economic opportunities focused on mining and quarrying activities, including forming strategic alliances with quality joint venture partners. If successful, these activities have the potential to generate significant economic returns both in direct revenue generated, and in associated employment opportunities.

The Aboriginal Land Rights Act places a number of constraints on how the assets of the statutory investment fund that it is responsible for managing can be applied, including significant administrative costs involved with supporting LALCs. The substantial backlog of land claims to be processed by the Government is another significant barrier to Aboriginal people realising the economic potential of the NSW Aboriginal Land Rights Act and the land council network. This backlog has been the subject of criticism by the Auditor-General.²⁷³

Therefore, in light of the current review of the Aboriginal Land Rights Act, Government will need to consider how it can provide greater flexibility to enable the NSWALC to be more commercially competitive without removing the safeguards necessary to protect the existing asset base. On this issue, the CEO of NSWALC, Geoff Scott, has stated that "Aboriginal people will never again see the generosity delivered by [land rights] legislation. We must not squander the economic base for the benefit of Aboriginal people." The then opposition spokesperson for Aboriginal Affairs and now Minister for Western NSW, the Hon. Kevin Humphries, MP stated in connection with debate relating to the Land Rights Amendment Bill 2009 that "...the progress to date in marrying land rights and the development agenda with the overarching issue of self determination has been slow and often contentious."

In the context of the current review of the Act, and in light of the substantial work that has been undertaken by the NSWALC to improve its corporate governance policies and processes in recent years, it would be timely for a review to be undertaken of its affairs for the purpose of assessing the gains made to date and the scope for further enhancements of its operations.

270 Six of these are fully operational and nine are in 'start up' mode.

271 The Honourable Mark Arbib, Minister for Indigenous Indigenous Employment and Economic Development, 'Expert advice to boost Indigenous enterprise', Media release, 26 September 2011.

272 The major coal resources in NSW are located in the Sydney-Gunnedah basin which extends from the south of Wollongong to north of Newcastle and north-west through to Narrabri. A significant proportion of the Aboriginal population in NSW lives in the 500km long and 150km wide basin area. (NSW Department of Primary Industries. www.dpi.nsw.gov.au. Accessed 16 September 2011). A promising recent development has been proposed in Dubbo, Western NSW to establish a Centre for Sustainable Mining Practices. If established, the centre would ultimately be a \$20 million investment and would increase local employment in the region. The Dubbo City Council also plans to create a 'mining cluster' – a memorandum of understanding was recently signed by Alkane Resources and a leading chemical company in relation to the Dubbo Zirconia Project – which could produce up to \$70 million per year. ('Dubbo bids for \$20 million mining school', Australian Mining, 19 May 2011).

273 NSW Auditor-General, *Report to Parliament 2007, Volume 5, Department of Lands, 2007*.

6.4.1.3. Well-targeted employment and skills development programs

While a significant number of job training programs are in place, particularly in relation to providing skills-based training and transition to work programs for young people, in the absence of real jobs, it is unlikely that these programs alone will lead to sustained employment for many Aboriginal people.

It is essential that job-training and mobility programs have regard to identified skills shortages which exist in NSW. Currently, there are skills shortages across a range of job-sectors including health, social welfare, automotive engineering and construction. A common criticism by community members is that the training programs on offer do not always reflect job market supply and demand. In this regard, we note that the Federal Minister for Indigenous Employment and Economic Development recently opened a two-day national roundtable on Aboriginal and Torres Strait Islander employment in local government. The roundtable was in response to the need to address the long-term workforce planning crisis being faced by many local councils due to an aging workforce, and the drain of skills from regional areas. As a large proportion of Aboriginal people live in regional and remote areas, both the federal and local governments have recognised that investing in job-readiness and mentoring programs for Aboriginal people is an important way to address this skills shortage.²⁷⁴

In discussing the need for improved Aboriginal economic capacity, we acknowledge that relying on a 'town-centric' approach may be inadequate in a number of remote communities where there is a limited economic base. For this reason, encouraging young Aboriginal people from an early age to recognise that maintaining their connection to country will not necessarily be lost if they seek employment opportunities away from home is important. While sufficient efforts need to be made to identify viable employment opportunities in local communities and nearby towns, it is also vital that job mobility is recognised and promoted as an inherent part of building Aboriginal economic capacity. In this regard, we note that the draft National Indigenous Economic Development Strategy states that there is a need for a more comprehensive policy framework to guide decisions on Commonwealth support for voluntary mobility and relocation assistance, as well as a review of the adequacy of current mobility assistance programs.²⁷⁵

The current Federal Government review of remote participation and employment services has also highlighted that these services can be fragmented through the presence of multiple job-service providers. Our own consultations have confirmed that there are concerns about the effectiveness of Job Services Australia in a number of locations across the state. Given the important role of job service providers in identifying employment opportunities for Aboriginal people, the state government should give early consideration to the extent of the duplication and costly inefficiencies in this area. It should also prioritise identifying opportunities to partner further with Aboriginal-run job service providers such as the AES. These providers have a strong record of assisting Aboriginal job seekers to prepare for work through their knowledge of Aboriginal culture and their understanding of local employer needs.

6.4.2. Better tracking of outcomes at local, regional and state-wide levels

Given the significance of employment and economic capacity in the context of addressing Aboriginal disadvantage, and the poor progress that has been made in this area in a number of high need locations, it is essential that this issue is better monitored. In doing so, more detailed information needs to be made publicly available.

The Overcoming Indigenous Disadvantage reporting framework developed by the Productivity Commission includes a number of 'headline indicators' to meet the six COAG targets. Sitting beneath these headline indicators are eight 'strategic areas for action' – including 'economic participation'.

In order to drive economic participation in NSW and effectively measure progress, data needs to be collected, and publicly reported on, against an agreed set of indicators developed by government in consultation with Aboriginal leadership. These indicators should complement those developed by the Productivity Commission:

- Aboriginal employment (including part-time/full-time status, sector and occupation)
- Aboriginal owned or controlled land holdings and businesses
- home ownership, and
- income support.²⁷⁶

This data needs to include a breakdown at a local, regional and state-wide level. The data also needs to include the nature of employment and economic capacity initiatives being implemented, and an analysis of whether they are delivering good results for Aboriginal people and communities. This data will be critical to informing the NSW Government's response to the (final) National Indigenous Economic Development Strategy.

²⁷⁴ Honourable Mark Arbib MP, Minister for Indigenous Employment and Economic Development, *Minister Calls on Local Government to strengthen Indigenous Employment*, Media release, 26 July 2011.

²⁷⁵ Department of Families, Housing, Community Services and Indigenous Affairs, *Indigenous Economic Development Strategy— Action Plan 2010-2012*, 2010

²⁷⁶ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage: Key Indicators 2011*, Productivity Commission, 2011. p.11.

Chapter 7. A new accountability framework for addressing Aboriginal disadvantage

What needs to change

- Establish a new accountability framework for addressing Aboriginal disadvantage in NSW that is underpinned by a consolidated, state-wide plan. In formulating this plan, priority should be given to:
 - in collaboration with Aboriginal leaders, identifying which problems most urgently need to be addressed, and reviewing whether existing government commitments and related strategies are likely to achieve the progress required to meet the agreed Closing the Gap targets.
 - strengthening leadership and governance mechanisms to drive the implementation of the plan at a state-wide, regional and local level, and streamlining decision-making processes for service planning, funding and delivery.
 - identifying 'priority locations' where specific, intensive work is most needed, and establishing regional and local positions with sufficient authority to formulate and implement whole of community plans for these locations.
 - publicly reporting location-specific progress against critical indicators, including outcomes for priority areas identified by individual communities.
- Provide an independent agency with the legislative authority to undertake, and publicly report on, the effectiveness of the implementation of the government's plan for addressing Aboriginal disadvantage. This legislative authority should include:
 - the power to compel witnesses, require the production of information and investigate specific issues.
 - a provision for consultation between the head of the agency and the Minister for Aboriginal Affairs.
 - a requirement to establish a steering committee of Aboriginal leaders and other expert representatives and to regularly consult with Aboriginal communities.
- Review, in light of the observations in this report, the current coordination and service delivery responsibilities of the Office of Aboriginal Affairs.

In NSW there are a range of plans and related initiatives aimed at addressing Aboriginal disadvantage, often developed in isolation and without a clear articulation of how they fit together.

Closing the Gap, together with the associated national partnership agreements, provides the overarching national framework for addressing Aboriginal disadvantage. In NSW, the former State Plan and *Two Ways Together* were both 'adjusted' to reflect the closing the gap targets. Individual state and federal agencies also have their own plans for how they will provide services to Aboriginal people, as well as plans that are either aimed at specifically addressing particular problems facing their communities (eg. *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*). State and federal agencies also incorporate a significant focus on outcomes for Aboriginal people in a number of broader plans (eg. *National Framework for Protecting Australia's Children; Keep Them Safe: A shared approach to child wellbeing in NSW*).

The various plans and commitments have a range of governance structures and reporting mechanisms in place which often overlap and sometimes even conflict.

What this means is that in NSW, we do not have a coherent sense of which elements of the array of existing plans remain relevant, or whether the disparate range of objectives and strategies they encompass are likely to achieve demonstrable improvements in the lives of Aboriginal people. In this regard, there is no clear articulation of the direction that NSW wants to take.

7.1. The need for strong governance, leadership and accountability

Our work in examining various initiatives aimed at improving service delivery to Aboriginal communities has shown that there is a need for more robust and effective leadership, governance and accountability mechanisms to drive action and to measure results in relation to:

- state-wide plans for issues that require a whole-of-government response (eg. *2021 – the current State Plan; NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities; Keep Them Safe*)
- more discrete initiatives that seek to address specific issues and may involve one or more agencies (eg. Aboriginal Maternal and Infant Health Strategy; Aboriginal Communities Development Program), and
- location specific initiatives (eg. Safe Families; Indigenous Child and Family Centres).

A useful starting point in considering the mechanisms that are required is to consider past mistakes in relation to initiatives aimed at addressing Aboriginal disadvantage.

7.1.1. Learning from past mistakes

A common failure in the past has been the proliferation of poorly conceived and badly implemented services and programs. From our work, we have observed many programs that may have delivered some benefits in the past but have long since reached their use-by date. When programs and services of this type are considered together, the enormous waste is an indictment on those agencies that continue to fund them. Moreover, failed programs that have not been discontinued clearly demonstrate the need for sound governance arrangements that include solid reporting requirements on real outcomes – as distinct from an over emphasis on reporting administrative compliance.

Another failing has been a lack of strong leadership, including the appointment to pivotal positions of ‘leaders’ without sufficient authority and capacity to manage the complex issues that major initiatives seek to address.

Two Ways Together (TWT) was intended to function as the blueprint for Aboriginal affairs in NSW. It is acknowledged as a key framework in the Bilateral Agreement between the NSW and Federal Governments, which forms part of the National Indigenous Reform Agreement. As stated earlier in this report, the Auditor-General found that the implementation of TWT was undermined by weaknesses in its governance framework which made accountability unclear.²⁷⁷

Responding to the Auditor-General’s report, the NSW Premier and Minister for Aboriginal Affairs criticised “*the complete lack of accountability and transparency*” of the former government’s approach to Aboriginal affairs and commented that it had allowed a program “*to run for almost a decade without effectively monitoring its results*”. The Premier and Minister stated that they would “*welcome full scrutiny for delivering results*”.²⁷⁸

A ‘chief executives committee’ was established to drive *Two Ways Together* (TWT), and the performance agreements of relevant heads of agencies were amended to include targets relating to responsibilities under the plan but, as the Auditor-General’s report shows, despite these measures, there has been limited success in ‘embedding’ the plan within agencies’ core business, and in delivering significant outcomes.²⁷⁹

In terms of why these measures failed, we would also point to the lack of robust governance arrangements at a regional level to drive TWT strategies. While the establishment in 2005 of ‘regional engagement groups’ was an attempt to address this, the groups have had limited impact. This appears to be largely because the officers responsible for coordinating them lack sufficient authority to drive the necessary action.

In this regard, our Bourke and Brewarrina report noted the limited capacity of regional staff employed by the Office of Aboriginal Affairs (OAA) and the Department of Premier and Cabinet to gain the traction that is required to influence whole of government service planning, funding and delivery in a practical way. The Auditor-General also commented on this in his report, noting, for instance, the disparity in seniority between the relatively junior regional OAA staff and regional managers from other agencies.²⁸⁰

As a mechanism for driving change, the effectiveness of the chief executives’ committee was also hampered by poor planning and a related failure to build integrated services within local communities. These systemic weaknesses reflect the need for a ‘joined-up’ response from all three levels of government. Because of the lack of a joint approach to planning (and related funding and service delivery), considerable effort and substantial resources have been wasted in Aboriginal communities. In our Bourke and Brewarrina report, we highlighted that regional agency

²⁷⁷ NSW Auditor-General, Performance Audit Report on *Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011.

²⁷⁸ Honourable Barry O’Farrell MP, Premier of NSW and Minister for Western Sydney and Honourable Victor Dominello MP, Minister for Aboriginal Affairs, *Audit report shows Labor failed Aboriginal communities*, Media release, 18 May 2011.

²⁷⁹ NSW Auditor-General, *Performance Audit: Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011, p.13.

²⁸⁰ NSW Auditor-General, *Performance Audit: Two Ways Together – NSW Aboriginal Affairs Plan*, May 2011, p.16.

managers have been drawing attention to these kinds of inefficiencies for some time, and have been advocating for change to address it.

Another example of a poorly planned and executed whole-of-government initiative is the *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*. The plan was released in early 2007. It contains 88 specific actions for which a number of government agencies are responsible. Since the plan's release, a number of significant developments have occurred, including the Wood Inquiry and the former Government's response – *Keep Them Safe*, and the Federal Government's 'Closing the Gap' initiative.

However, notwithstanding the relevance of these developments to core components of the Interagency Plan, there has been no substantial review of the ongoing relevance of many of its actions. In addition, the effectiveness of the governance structure that is meant to drive the plan's implementation has not been adequately reviewed, despite the obvious difficulties that the Office of Aboriginal Affairs has had in performing the lead role for this initiative. As we expressed in our Bourke and Brewarrina report, OAA's difficulties in this regard are more an illustration of its 'place' in the bureaucracy than a lack of commitment on its part to perform its role.

The two examples above illustrate that despite the need for 'interagency cooperation' being recognised, there is still a long way to go before we have a genuinely integrated service model operating in Aboriginal communities.

7.1.2. Making change happen

Although some efforts have been made to 'align' state and federal government initiatives aimed at improving outcomes for Aboriginal people, to date the changes needed to achieve truly integrated planning, funding and delivery of these initiatives has not taken place.

Throughout this report, we have argued the need for an overarching plan to be developed for Aboriginal affairs in this state. The process of developing this plan would put a spotlight on whether existing initiatives are justified by allowing for an examination of whether the current objectives and strategies that underpin them are likely to deliver the desired results. It would also provide a genuine opportunity for government to work in partnership with Aboriginal leaders to determine the best ways of achieving the outcomes they seek for their communities.

To date, 'whole of government' planning efforts in the area of Aboriginal affairs have tended to focus on human service and justice agencies coming together to facilitate better service delivery to Aboriginal people. However, given the impact of unemployment and limited economic capacity in many Aboriginal communities, it is essential that state agencies responsible for economic development are also seen as major players in bringing about change. The planning process should also facilitate access to various experts who can provide mentoring and advice, and assist in the development of innovative approaches across a range of areas including effective service and good community governance.

The overarching plan should clearly identify – based on the available evidence – which problems most urgently need to be addressed, how this should take place, and how progress will be measured. In this regard, 'priority locations' where specific, intensive work is most needed should be identified through a rigorous and accountable process. The development of the plan should also involve identifying the governance and accountability mechanisms needed at a central, regional and local level to implement it. The recently announced Ministerial Taskforce provides an ideal opportunity to carry out these tasks.

In terms of accountability, it is also important to recognise that Aboriginal people and the public generally, have the right to expect, and to participate in, transparent, regular and meaningful reporting of progress in relation to initiatives at a local level. Too often, we have observed that this process has been far from rigorous, with reporting, if it occurs at all, consisting only of high level descriptions of 'activities', rather than 'outcomes'. We discuss the need for improvements to the way that progress towards addressing Aboriginal disadvantage is monitored and reported later in this chapter.

7.1.2.1. An executive committee

We believe it is essential that the overarching plan for addressing Aboriginal disadvantage is driven by an executive committee of directors-general (and relevant agency chief executives). In light of the focus on education and economic development through Closing the Gap and other key initiatives, it is vital that an executive committee of this type also includes representatives from federal government agencies such as FAHCSIA and DEEWR. In addition, relevant Aboriginal leaders and peak bodies – and private sector stakeholders – should be at the table to ensure broad representation and promote transparency and accountability.

7.1.2.2. Designating responsibility to positions with sufficient authority

In addition to the need for an executive committee of the kind that we have proposed, operational leadership needs to be established. In future, those who are appointed to provide operational leadership to initiatives under the overarching plan must be competent people with sufficient authority to ensure integrated local implementation of the plan's objectives and strategies.

In Queensland, the Government Champion Program is attempting to achieve integrated service delivery to Indigenous communities through pooling policy expertise and agency resources. Under this program, every chief executive of a government agency has been appointed as a 'champion' for one or more discrete Indigenous communities. The role of the champions is to partner with communities to harness the combined resources of agencies in order to deliver better targeted and more integrated services. In theory, each champion has the authority to cut through the traditional barriers to implementing effective whole of government approaches.²⁸¹ A report about the progress of each community is documented in the *Annual Report for Queensland's Discrete Indigenous Communities* (we discuss this further in section 7.2). However, what the Government Champion Program in Queensland does not include are senior positions on the ground to drive change.

We believe that it is essential for a designated senior position to be responsible for, and have the authority to, drive the necessary change at a regional level by ensuring that critical decisions are made and actually implemented, including decisions about matters that cut across the portfolios of individual agencies. In priority locations within each region, these positions would also need to be supported by relatively senior positions with responsibility for developing and implementing whole of community action plans. For this model to work, competent and committed engagement with communities, federal agencies and NGO partners would be required.

7.1.2.3. Achieving change at a local level

*'A clear message from the recent past is that policies and programs must be targeted to local needs, in close engagement and active partnership with the people they are designed to assist. From this viewpoint, strategic priorities in improving service delivery include...increasing agency presence 'on the ground' and giving priority to flexible joined-up government solutions and services.'*²⁸²

It is our view that the uncoordinated funding of ever more services has become a poor substitute for failing to grapple with the more difficult, and inter-related, challenges associated with child abuse and neglect, young offending, habitual non-attendance at school and high levels of substance misuse and unemployment in high-need Aboriginal communities. Through our work we have repeatedly stressed that, on its own, the injection of additional resources will not guarantee improved outcomes for vulnerable children and families in these communities.

Rather, what is needed to achieve sustainable improvement is an integrated approach to decision making about the local planning, funding and delivery of services in these locations. As the *Strategic Review of Indigenous Expenditure* acknowledged, "significant efficiencies could be gained by pooling expertise and coordinating efforts in areas where individual agencies are currently 'doing their own thing'".²⁸³

Centralising decision-making around service planning and funding would enable reshaping of the service system to meet the identified needs of individual high-needs communities. In this regard, it would be important to allow for a 'flexible funding pool' to be established, based on unspent allocations and/or funding from new or existing government initiatives. This funding pool could then be used to enhance service capacity in a targeted way. In priority locations, this decision-making role could be a key responsibility of the senior regional and local positions that we have argued for.

A centralised approach to funding should also help to deliver a more coordinated approach to building the capacity of the Aboriginal service sector. As well, it would assist in simplifying and standardising the monitoring and reporting processes for funded organisations, and make it easier to identify, and take action in relation to, poor service outcomes.²⁸⁴ On this issue, a constant complaint from community leaders is that particular services continue to receive funding in circumstances where they are failing to provide a good quality and equitable service across the

281 Queensland Government, Department of Communities, Aboriginal and Torres Strait Islander Services. www.atsip.qld.gov.au/government/networks/champions/. Accessed 12 August 2011.

282 Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, February 2010, p.13.

283 Department of Finance and Deregulation, *Strategic Review of Indigenous Expenditure - Report to the Australian Government*, February 2010, p.13.

284 A number of agencies within the same department at a state level continue to have different monitoring and reporting requirements for the organisations that they fund against categories such as frequency of data returns and regularity of compliance checking in relation to service outcomes and financial management. In addition, government agencies each employ separate positions with responsibilities for funded program administration and support. This complexity is further complicated by the fact that many NGOs also receive funding from other levels of government, each having their own administrative requirements.

community. While it is critical that the administrative burden on NGOs is reduced, this must not lead to an associated reduction in probity standards.²⁸⁵

The absence of a genuinely integrated approach to date has resulted in a complex landscape in which multiple agencies within different jurisdictions are separately making their own independent decisions about what services they will deliver and/or fund the non-government organisation sector to deliver in particular locations. This system, which lacks coherence and promotes inefficiency, has led to the uncoordinated proliferation of services in many high-need communities. In some locations, the number of such services is huge. For example, in Wilcannia, there are around 67 services for a population of approximately 600 people.

Duplication and over-administration is a very obvious risk in this context. Invariably, the disjointed approach to service planning, funding and delivery has led to the failure to meet the individual needs of local communities – and the most vulnerable people within them – in a holistic and efficient way. The ongoing failure to address the inefficiencies created by the ‘silo’ approach to the administration of funding has fundamentally compromised the implementation of an effective whole of government response to many of the problems facing Aboriginal communities.

Our 2010 Bourke and Brewarrina report recommended that the Department of Premier and Cabinet (DPC), together with the (then) Department of Human Services, incorporate an integrated approach to local service planning, funding and delivery in developing an action plan to rebuild the service sector in disadvantaged Aboriginal communities. We were advised that the new Department of Family and Community Services (FACS) would be taking the lead in responding to our report.

We acknowledge that since the release of our report, efforts have been made by FACS to improve service delivery through better coordination. For example, it has opened three ‘Access Centres’ in Western NSW (at Walgett, Nyngan and Narrandera) which are intended to function as ‘one-stop-shops’ by providing the public with access to multiple government social services from one location. In addition, FACS has established complex case panels in Western region to better manage and support children and families who are involved with multiple FACS agencies.²⁸⁶

On 13 September 2011, FACS provided us with formal advice about how it is responding to the observations and recommendations in our Bourke and Brewarrina report. We were advised that as part of its overall approach to improving service delivery, FACS is currently undertaking “a number of reviews of location based initiatives”, and that these reviews have demonstrated that “the problem solving approach typically taken by governments is not well suited to addressing entrenched, multi-faceted disadvantage and... a community development focused approach may be more successful”.²⁸⁷ FACS also informed us that the implementation of the ‘One Place, One Plan’ model in Brewarrina would constitute its “first activity” in response to our Bourke and Brewarrina inquiry. This model is profiled below.

Profile: One Place, One Plan

According to FACS, the One Place, One Plan model has been developed “to deliver regional, place-based planning for selected geographic communities”,²⁸⁸ and will be implemented over one year “using a phased approach building on current [FACS] networks”.²⁸⁹

We were advised that the implementation of the model in Brewarrina would be considered with a view to identifying “opportunities for realignment and reshaping” of the local service system, consistent with the observations and recommendations contained in our report.²⁹⁰ While the correspondence we received from FACS did not refer to its intention to implement the ‘One Place, One Plan’ model in another 14 communities (seven of which, like Brewarrina, have significant Aboriginal populations), we had become aware of this in August 2011.²⁹¹

It is clear from the documentation provided by FACS that despite the model’s aim of addressing the currently “less than ideal planning coordination” in some communities, the primary focus of ‘One Place, One Plan’ is on

285 In our December 2010 report on improving probity standards for funded organisations, we highlighted the lack of clear mechanisms requiring NGOs to comply with baseline probity checking. We also found the disparity of requirements in various agency funding agreements had led to widely varied practices in probity checking. We recommended that the health and human services sectors develop and implement a more consistent, efficient and rigorous probity checking system for NGOs, which articulates baseline probity checking requirements and provides clear guidance on a range of practical issues associated with such checking. We received a response from the Department of Family and Community Services on 22 August 2011 indicating its support for our recommendations and advice as to how they are being implemented.

286 Verbal advice provided by the Department of Family and Community Services, 7 July 2011; Family and Community Services, ‘Success for FACS access centres’, *Directions e-newsletter*, 18 July 2011.

287 Advice provided by Department of Family and Community Services, 13 September 2011.

288 Advice provided by the Department of Family and Community Services, 13 September 2011, p.1.

289 Department of Family and Community Services, draft *One Place, One Plan policy*, January 2011, p.1.

290 Advice provided by Department of Family and Community Services, 13 September 2011. p.4.

291 Department of Family and Community Services intranet. Accessed 16 August 2011.

“addressing coordination issues within [FACS] agencies”.²⁹² The governance structure established by FACS to drive the model reflects this.

FACS’ Regional Executive Director will lead the model, which will be implemented by a Service Planning Group (SPG) comprised of FACS officers with “understanding and knowledge of the priority community and/or expertise in local planning and partnerships”.²⁹³ The key role of the SPG is to be a conduit for community engagement, manage tasks for the development of the plan, and oversee their implementation. Community governance structures will be engaged by the SPG to oversee the development and implementation of the plan.

The SPG will report to FACS’ Regional Executive Forum (which brings together in each region senior officers from all FACS agencies), who will use their authority and delegation “to commit resources at the regional level to achieve the shared outcomes identified in the plan for the best interests of the community”.²⁹⁴ The REF will also be responsible for monitoring the delivery of the model.

Finally, a Service Delivery Strategy Group, consisting of FACS’ Deputy Chief Executives and Executive Directors, will oversight the impact of the model on FACS’ business, and provide strategic direction and guidance to resolve issues referred to it by the REF.

FACS has advised us that an SPG for Brewarrina has already been established, and has completed a demographic profile of the community; conducted a needs assessment “from the perspective of FACS target groups”;²⁹⁵ analysed previous and current community, local, state and federal plans; and ‘scanned’ FACS business and service systems and structures. The SPG is now determining the most suitable community governance structures with which to engage. To this end, it is making arrangements to meet and consult with the Brewarrina Community Working Party (CWP).

As we pointed out in our Bourke and Brewarrina report, there are a range of key local stakeholders in Brewarrina apart from the CWP that government agencies should consult. We recommended that consideration be given to appointing a sufficiently senior community facilitator to take responsibility for working with all key community stakeholders in Brewarrina to develop a community action plan and strengthen community governance. While the Office of Aboriginal Affairs has appointed a facilitator to help strengthen community governance by addressing existing divisions, there is still much to be done in this critical area.

While we note that a subsidiary aim of the ‘One Place, One Plan’ model is to improve coordination and planning with other government agencies “where this supports the business of [FACS]”, and that it will utilise the Justice and Human Services Regional Plan to inform the community planning process,²⁹⁶ the model falls short of embodying a truly integrated approach to local service planning, funding and delivery given that its mandate and in particular, its governance structure, does not extend beyond FACS agencies.

Initiatives aimed at providing a more coordinated service response by agencies within a single department have merit. However, ideally they should include participation not only by other human service and justice agencies but also relevant federal agencies, local government and the NGO sector, and form part of an overall response to addressing the type of structural problems impacting on the effectiveness of the service system that we have outlined in this chapter. We believe that in its current form, the ‘One Place, One Plan’ model lacks the capacity to sufficiently address the challenges facing the high-need communities in which FACS plans to implement it.

In fact, FACS has acknowledged that what is required is an effective, genuinely whole-of-government response, commenting on the need to “develop a shared agreement over the long term, and develop a mechanism for co-ordinating services provided by all levels of government, including local government, non-government agencies and the business sector where possible.”²⁹⁷

We note FACS’ advice that progress in responding to the recommendations of our Bourke and Brewarrina report has been made a standing item on the agenda of the Justice and Human Services Chief Executive Officers forum, and that a working group of senior officers will be convened to provide advice to the forum.²⁹⁸ This is encouraging.

Finally, it is important to once again stress that a centralised planning, funding and service delivery model is doomed to fail unless it is carried out in genuine partnership with Aboriginal leaders. As part of rolling out the model we propose in particular communities, we believe there would be merit in concurrent trialling of specific initiatives to

292 Department of Family and Community Services, draft *One Place, One Plan policy*, January 2011, p2.

293 Department of Family and Community Services, draft *One Place, One Plan policy*, January 2011, p2.

294 Department of Family and Community Services, draft *One Place, One Plan policy*, January 2011, p2.

295 Advice provided by the Department of Family and Community Services, 13 September 2011, p.3.

296 Department of Family and Community Services, draft *One Place One Plan Policy*, January 2011, p.1.

297 Advice provided by the Department of Family and Community Services, 13 September 2011, p.3.

298 We understand that the working group will include representatives from the Department of Education and Communities (including the Office of Aboriginal Affairs), NSW Police, NSW Health and DPC (including the Regional Coordination and *Keep Them Safe* Implementation Unit).

strengthen the capacity of Aboriginal leadership. (In this regard, the specific proposals that we outlined in Chapter 4 to strengthen the role of Aboriginal leaders are apposite).

7.2. A robust and meaningful way to measure and report on 'closing the gap'

Through the National Indigenous Reform Agreement, all Australian governments have acknowledged the importance of, and are committed to developing, a more robust evidence base in relation to addressing Aboriginal disadvantage. As part of this exercise, there is a need for clear information about each community's needs, the available services to respond and the outcomes they are delivering. The ongoing collection and analysis of demographic information should also be seen as an essential part of informing local community needs assessments.²⁹⁹

The existing national framework for monitoring, and publicly reporting on, progress towards reducing Aboriginal disadvantage (most notably through the Overcoming Indigenous Disadvantage Steering Committee and the COAG Reform Council) provides important information about major trends against key indicators. However, it only captures high level data on a state and territory basis.

The current reporting framework in NSW established by *Two Ways Together* captures and reports information about a range of areas at a state-wide level, and provides only a limited regional breakdown of some of this information. However, it does not provide any information or analysis of progress at a local community level against a range of critical indicators that relate to the overall 'health' of a community. For example, it does not report on rates of school attendance, contact with the criminal justice and child protection systems or on levels of employment. Without this type of information, it is impossible to adequately assess the nature and extent of problems facing particular Aboriginal communities. It is also difficult to determine whether investments made in relation to initiatives aimed at addressing Aboriginal disadvantage, have delivered 'value for money'.

An example of regular localised reporting about progress against the key 'Closing the Gap' indicators can be found in Queensland, which released its first annual 'highlights' report for that state's discrete Indigenous communities in 2010. The report provides information which:

*'allows community members to see firsthand how their community is tracking against the indicators and the improvements that are being made on the ground to ensure that children are attending school, people are safe as well as supported, and that real employment opportunities and adequate housing are available in communities.'*³⁰⁰

Each government 'champion' in Queensland is required to provide a report on the achievements of the communities for which they are responsible as well as areas requiring further attention. This is supplemented by quarterly trend data for each discrete community against a number of indicators. The annual report is considered to be a 'work in progress' and already communities have provided valuable suggestions about the inclusion of additional information in future editions.

In collaboration with Aboriginal leaders, the Ministerial Taskforce, through the executive committee, could identify the type of data that is required at state-wide, regional and local levels to assess whether progress is being made in overcoming Aboriginal disadvantage. For government to achieve real change through the governance arrangements that we have proposed, access to this kind of information will be essential.

7.3. Independent scrutiny

On the issue of improving accountability, the Auditor-General recommended the appointment of an independent auditor to undertake, and publicly report on, annual reviews of government programs and services to Aboriginal people against specific outcomes and accountabilities. He also recommended that government agencies funded to deliver programs and services to Aboriginal people should be required to include in their annual reports a breakdown of Aboriginal specific funds received, how they were spent and outcomes achieved. We support the broad thrust of these recommendations.

Furthermore, we believe there would be merit in an agency performing a statutory role to provide independent scrutiny of the actions undertaken, and the outcomes achieved, in responding to Aboriginal disadvantage in this state. This agency's responsibilities could include providing public reports that give a detailed analysis of the progress made in relation to the *Closing the Gap* targets, as well as the key performance indicators that would be

²⁹⁹ In order to plan its housing program, the NSWALC has purchased ABS census data against categories including counts of persons based on age and sex; levels of educational achievement; labour force status; gross individual weekly incomes; tenure types and landlord types; rent (weekly) and number of persons usually resident in a household. Advice provided by NSWALC, 5 September 2011.

³⁰⁰ Queensland Government, Department of Communities, Aboriginal and Torres Strait Islander Services, *Annual Highlights Report for Queensland's Discrete Indigenous Communities July 2009 - June 2010*, p.ii.

outlined in the Government's overarching plan for Aboriginal affairs. To enable independent scrutiny, this agency would need to have the power to, where necessary, compel witnesses, require the production of information and investigate specific issues.

In performing its functions, the agency would need to establish a steering committee of Aboriginal leaders and other expert representatives. Its governing legislation should also specifically provide for consultation between the head of the agency and the Minister for Aboriginal Affairs. Finally, the legislation should explicitly recognise that in carrying out its functions, the agency should regularly consult with Aboriginal communities.

7.4. The role of the Office of Aboriginal Affairs

If the approach to leadership, governance and independent scrutiny that we have outlined is adopted, a question arises as to whether there is an ongoing role for an agency such as the Office of Aboriginal Affairs (OAA) which has a sole focus on Aboriginal issues. The functions of OAA are to:

- Administer the *Aboriginal Land Rights Act 1983* on behalf of the Minister for Aboriginal Affairs.³⁰¹
- Support effective community partnerships, decision making and consultation with and within communities (the TWT Partnership Community Program, peak body engagement, and local engagement groups).
- Build partnerships which improve access to services, resources and information (assistance to develop community action plans, provision of demographic data about the community, TWT regional engagement groups).
- Coordinate the delivery of programs and services (economic participation, environmental health, culture and heritage e.g. family records, Aboriginal languages program).
- Monitor, evaluate and report on how government in NSW is improving outcomes for Aboriginal people, and share information on what works (TWT Indicator Report, regional reports, community profiles and more).
- Operate as the lead agency in NSW government for specific initiatives (Safe Families, Interagency Plan).
- Provide expert specialist knowledge on Aboriginal affairs within the NSW Government.³⁰²

OAA's current function to 'coordinate the delivery of programs and services' may be unnecessary, if our proposals are adopted. As we have outlined previously, the executive committee of directors-general and others, would be ideally placed to provide an 'overarching perspective' on whether particular initiatives are delivering on specific commitments to address Aboriginal disadvantage. At present, all lead human service and justice agencies have discrete Aboriginal policy and/or service delivery units that should be providing strategic advice about program development and implementation.³⁰³ In addition, significant policy work by various agencies should be centrally coordinated to promote a consistent vision and integrated practice.

Finally, we believe that independent scrutiny is an essential component of holding agencies to account in relation to addressing Aboriginal disadvantage. For this reason, we believe that the monitoring, evaluation and reporting functions currently held by OAA could be better dealt with by an independent agency of the kind that we have proposed.

301 Statutory functions of the Registrar of the *Aboriginal Land Rights Act 1983* include the registration of land claims, the approval of the rules of NSWALC and the LALCs, the making of recommendations to the Minister, where necessary, regarding LALC boundaries and the issuing of compliance directions to LALCs relating to their administration of the ALRA. The Registrar may also refer failures to comply with such directions to the Court, mediate disputes relating to the operation of the Act and investigate complaints regarding pecuniary interest and misbehaviour issues by councillors, board members and members of LALC staff. The Registrar also provides advice, education and training about the meaning and operation of the Act and Regulation and the rules of Aboriginal Land Councils. (Office of the Registrar of the Aboriginal Land Rights Act.. www.oralra.nsw.gov.au/officefunction.html. Accessed 29 August 2011).

302 NSW Department of Human Services, Aboriginal Affairs NSW, *Achievements Report 2009/2010*, 2010, p.10.

303 Existing regional OAA positions could be administratively 'housed' within the Department of Premier and Cabinet.

Recommendations

On 25 August 2011, the NSW Minister for Aboriginal Affairs announced the establishment of a Ministerial Taskforce for Aboriginal Affairs to develop a draft policy strategy by mid 2012. We understand that the Ministerial Taskforce is the primary mechanism by which the NSW Government will develop a new approach to addressing Aboriginal disadvantage. The Taskforce will have a particular focus on identifying opportunities for improving education and employment outcomes for Aboriginal people. It will consider the recommendations of recent key reports relating to Aboriginal program and service delivery.

In light of the establishment of the Ministerial Taskforce, we do not consider it appropriate to make detailed recommendations at this point in time. It is important that the Taskforce, in particular the Aboriginal advisors, have the opportunity to consider and provide advice to government about all of the evidence and options available to it in what is a critical policy area.

The observations and recommendations made in this report are intended to assist the NSW Government and its Ministerial Taskforce in addressing systemic disadvantage in Aboriginal communities throughout NSW, and should be considered alongside the observations and recommendations contained in our December 2010 report to Parliament, *Inquiry into service provision to the Bourke and Brewarrina communities*.

1. We recommend that the NSW Government provide this report to all members of the Ministerial Taskforce for Aboriginal Affairs.
2. We recommend that the NSW Government, through its Ministerial Taskforce, give detailed consideration to the required changes we have identified at the beginning of each of chapters 3-7.
3. Given the ongoing and extensive work of this office in relation to Aboriginal communities, we recommend that the NSW Government:
 - a) regularly liaises with this office to discuss significant issues being considered by the Ministerial Taskforce, and
 - b) provides this office with an initial progress report about the work of the Ministerial Taskforce by December 2011, and a copy of its draft policy strategy by 30 June 2012.

Appendix 1. The Cape York Welfare Reform Agenda

In 2002, Cape York Partnerships proposed to the Queensland Government that an inquiry be undertaken into the problems associated with alcohol abuse in Indigenous communities. This led to the Cape York Justice study conducted by Justice Tony Fitzgerald.³⁰⁴ As a result of the Inquiry, the Queensland Government committed to introducing alcohol restrictions throughout Cape York and supported Cape York Partnerships to develop associated reform initiatives. This, in turn, led to the establishment of the Cape York Institute for Policy and Leadership in 2003. The Queensland Government also adopted the 'negotiation table' concept to improve its engagement with Indigenous communities.³⁰⁵ In 2006-2007, the Federal Government allocated funding to the Cape York Institute and Cape York Partnerships to work with the communities of Aurukun, Coen, Hopevale and Mossman Gorge to design and develop proposals for welfare reform.³⁰⁶

In May 2007, the Cape York Institute published its landmark report, *From Hand Out to Hand Up*³⁰⁷ which became the foundation of Cape York Welfare reform (CYWR). The report presented the policy and theory behind the CYWR and urged Government to address one of the prominent underlying causes of social problems in Indigenous communities - the deterioration of social norms - by reforming welfare incentives and community supports. In June 2007, the Federal and Queensland Governments agreed to trial the CYWR for a period of three and a half years and allocated \$48 million to support it. The trial aims to restore positive social norms; re-establish local Indigenous authority and support community; improve school attendance and education outcomes and individual engagement in the 'real economy'. Central to the theory behind the CYWR agenda is the need to provide a range of incentives for people to build better lives through a 'structured opportunity' and 'supported self-help' approach.

On 10 May 2011, the Minister for Families, Housing, Community Services and Indigenous Affairs announced that the Federal Government would provide \$16.1 million to extend the trial until 31 December 2012. Minister Macklin noted that the CYWR trial was "making a real and lasting difference in the lives of Indigenous people living in the Cape" and that "the trial had shown community-driven initiatives can change lives". Minister Macklin also noted that since the trial "began in July 2008 the Cape York communities of Aurukun, Coen, Hope Vale and Mossman Gorge had seen improved school attendance, care and protection of children, and community safety."³⁰⁸

An important element of the CYWR trial to date is the robust and high-level governance arrangements which drive its implementation. These arrangements are underpinned by a 'pentagon' Agreement between the Federal and State Governments, CYP, and regional organisations, and are complemented by the dynamic CYP business model. The model is founded on partnerships with government, major corporate bodies such as Jawun – which provides Cape York organisations with up to 25 one month secondments each year from corporations such as Boston Consulting, KPMG and Westpac to assist Aboriginal people to establish and implement a range of customised initiatives in their communities. CYP has also secured financial support from philanthropic organisations, principally the Vincent Fairfax Family Foundation.³⁰⁹

Although the ongoing implementation of the CYWR is driven by a well-credentialed leadership and robust governance model, it also recognises that change at the community level will not occur without 'local change champions' – people in leadership positions living within communities and 'natural leaders' – the women and men who set a positive example by doing everyday things like taking their children to school each day – it is these everyday leaders that ultimately, will bring others along and transform communities.³¹⁰

Fifteen projects are currently operating as part of CYWR and each of them fits into one of the following four streams: social responsibility (including the establishment of the Family Responsibilities Commission); employment and economic development; education and housing. Key features of these streams include:

304 Cape York Welfare Reform Project, Cape York Institute for Policy and Leadership, *From Hand Out to Hand Up*, May 2007, p.23.

305 Cape York Welfare Reform Project, Cape York Institute for Policy and Leadership, *From Hand Out to Hand Up*, May 2007 p.23.

306 Cape York Welfare Reform Project, Cape York Institute for Policy and Leadership, *From Hand Out to Hand Up*, May 2007 p.24.

307 Cape York Welfare Reform Project, Cape York Institute for Policy and Leadership, *From Hand Out to Hand Up*, May 2007.

308 Honourable Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, *Extending the Cape York Welfare Reform Trial*, Media release, 10 May 2011.

309 Cape York Partnerships, *About Cape York Partnerships*. www.capeyorkpartnerships.com. Accessed 15 September 2011.

310 Consultation between Ombudsman staff and Noel Pearson, 1 August 2011.

Social responsibility – the vital role played by Aboriginal commissioners

The social responsibility stream, including the establishment of the Family Responsibilities Commission, is pivotal to the CYWR agenda. On 13 March 2008, the *Family Responsibilities Commission Act 2008* (the Act) was passed with bipartisan support, by the Queensland Parliament.³¹¹ The Commission is headed by Commissioner David Glasgow, with each of the four trial communities supported by six local commissioners who are elders or respected community members. The Commission acts as a 'central change agent' reinforcing positive behaviour and social norms promoted by other CYWR projects.³¹²

The Commission's main activity is to 'hold conferences with community members and encourage clients, individuals and families to engage in socially responsible standards of behaviour whilst promoting the interests, rights and wellbeing of children and other vulnerable persons living in the community.'³¹³

The Commission's jurisdiction extends to both Aboriginal and non-Aboriginal people who are welfare recipients and who reside in the four communities. The Act sets out the statutory obligations of various Queensland Government departments to notify the Commission when a parent or carer within the Commission's jurisdiction is not meeting pre-determined obligations. The Commission is notified by local schools about non-attendance, by Child Safety Services if there is a child safety report, by public housing providers about a breach of a tenancy agreement, and by the Magistrates Court when a person is convicted of an offence.³¹⁴

Once the Commission receives a notification, it meets to discuss whether the matter is within jurisdiction and whether a conference is warranted. The Commission takes the unique circumstances of each person into account and may: take no action; issue a reprimand; make a referral and/or enter into an agreement with the client (or direct the client) to attend a community support service; and finally, require that the person be income managed by Centrelink for a period of between 3-12 months.

Conferences are chaired by one of the local commissioners. They help assess each case and conduct proceedings with people in both English and local languages. According to those we consulted, the appointment of the local commissioners in each community has played a significant role in helping to restore local Aboriginal authority. The Commissioners that we spoke with emphasised that their role is mostly about providing support and encouraging people in the right direction rather than taking punitive action.

While at this stage, the full impacts of the FRC in all four communities is yet to be evaluated, what is clear, is that there has been improvements to school attendance and reduced violence in two communities. An early review of the FRC found that the program had been implemented effectively and is progressing towards meeting its objectives.³¹⁵ According to Commissioner Glasgow and his Deputy, the success of the FRC is attributable to the strength of the community leaders who sit with them, and the high esteem in which they are held within their communities. Most community members and service providers that we consulted during our visit, also held the view that the commissioners have played a pivotal role in re-establishing original values of respect and responsibility. Their effectiveness has also been linked to their capacity to work with entire households.

Finally, Commissioner Glasgow stressed that the local commissioners' role in restoring Indigenous authority and role-modelling leadership – while not easy to measure through statistics – should not be underestimated.

Employment and economic development

This stream focuses on creating incentives for employment and entrepreneurship.³¹⁶ Projects under this stream include the establishment of business precincts, provision of mentoring and business support services, job creation using CDEP positions and employment support services, as well as initiatives to assist job mobility by supporting Indigenous people to seek work outside their communities.

Business Precincts and 'Opportunity Hubs' have been established in Aurukun and Hopevale to provide additional infrastructure and 'one-stop-shops' for CYWR service providers. The plan is for Business Precincts to include a post office, banking and other government services as well as local businesses. They are also used as a multipurpose

311 The Act commenced operation on 1 July 2008 and established the Family Responsibility Commission.

312 Department of Families, Housing, Community Services and Indigenous Affairs, *Implementation Review of the Family Responsibilities Commission Final Report*, September 2010, p.227.

313 Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Fact Sheets, *Family Responsibilities Commission*, 2009.

314 Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Fact Sheets, *Family Responsibilities Commission*, 2009.

315 Department of Families, Housing, Community Services and Indigenous Affairs, *Implementation Review of the Family Responsibilities Commission Final Report*, September 2010.

316 Department of Families, Housing, Community Services and Indigenous Affairs, *Evaluation Framework and Program Theory for The Cape York Welfare Reform Trial*, March 2009, p.88.

meeting centre, a place for social interactions and an access point for CYP 'products' such as the Student Education Trust, the Home Ownership Opportunity Port and M-Power.³¹⁷ The overarching aim of the Hubs is to foster positive behaviour through carrying out everyday responsibilities such as paying bills, banking and general money management. Support services such as financial mentoring and assistance with obtaining personal and business loans are also available.³¹⁸

The Structured Training and Employment Project (STEP) provides a range of services including intensive work readiness training, targeted pre-employment assistance, work placement and mentoring. These services complement services currently available through employment service providers. Examples of current STEP projects include work readiness projects to place local people in jobs associated with the development of the Mossman Gorge visitors centre and mining projects in Aurukun. Support is also given to Indigenous people who wish to relocate to areas with greater job opportunities.³¹⁹

Another key component of CYWR is converting CDEP program positions into real jobs. Around 40 jobs supporting the delivery of Federal Government services will be created from CDEP activities in the four CYWR trial communities.³²⁰

In addition to meeting with representatives of Cape York Partnerships, we consulted with local Aboriginal Shire Council Mayors and General Managers in both Doomadgee and Cape York. During our discussions, we were informed of a diverse range of economic capacity building initiatives in areas such as mining, construction, horticulture, cattle farming and tourism. Aboriginal Shire Councils have played a pivotal role in securing community ownership of local goods and service enterprises to reduce the cost of basic household items and create local employment opportunities. Councils have also been pivotal in securing an impressive suite of commitments from the corporate and government sectors to delivering targeted skills-based training programs with direct pathways into jobs, and using local labour to fulfil government service contracts. In both Aurukun and Hopevale, teams of tradespeople are being trained by major corporations which enables them to work in a variety of industries across the Peninsula, as well as creating a pool of local tradespeople to complete local building programs, and ongoing repair and maintenance work to housing.

Creating home ownership opportunities

CYWR promotes a shift from the exclusive provision of public housing to a system based on home ownership, with public housing catering only to a minority of residents. Home ownership is integral to CYP's broader agenda of moving away from dependency on welfare and towards greater individual responsibility. The Cape York Home Ownership Program (CYHOP) is based on the philosophy that owning one's home is the beginning of building an asset base, thereby encouraging economic independence and choice in the housing market. The program takes all necessary steps to facilitate securing leasehold title for householders and provides a range of support services to transition people from being tenants to home owners.

Additionally, CYHOP has entered into a Memorandum of Understanding with the Queensland and Commonwealth Governments to address some of the barriers to home ownership – the MOU covers:

- Creating the right for all tenants on Cape York to buy the house they are living in.
- Establishing a mechanism to convert 40 year social housing leases into 99 year residential leases.
- Securing fair and reasonable land and house valuations.
- Developing a framework and funding for Trustees to administer land transactions such as leases and home ownership.

As part of the Pride of Place program,³²¹ the Cape York Institute, in partnership with Cape York Land Council and Balkanu Cape York, is developing proposals to trial home ownership solutions based on a combination of government grant, financial equity (loans) and 'sweat equity' (family contribution to the labour). The CYI believes

317 Cape York Partnerships, 'Are you ready to take the next step? Seize opportunities for yourself and your family' (M-Power brochure) N.D.

318 Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Fact Sheets, *Economic Opportunity - Business Development*, 2009.

319 Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Fact Sheets, *Economic Opportunity - Employment*, 2009.

320 Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Fact Sheets, *Economic Opportunity - Employment - Real Jobs from CDEP*, 2009.

321 Pride of Place is a backyard renovation project supporting families to carry out small-scale projects that build skills, pride and confidence; transforming their backyards into attractive, safe and healthy spaces. Cape York Partnerships, *About Cape York Partnerships*. www.capeyorkpartnerships.com. Accessed 15 September 2011.

that the use of 'sweat equity' will both reduce the overall cash costs of construction and act as a trigger for greater responsibility and sense of 'ownership' by individuals and families.³²²

Improving school attendance and education outcomes

There are five major programs operating in the CYWR communities under the education banner. A literacy program to improve reading and writing; a student attendance case management framework to support families to ensure their children attend school, are on time and have an uninterrupted school day; Student Education Trusts (SETs)³²³ to assist parents to financially plan and provide for their child's education and development expenses; and availability of ABSTUDY to help support Indigenous secondary students to live away from home to attend a secondary school outside their community.

A significant aspect of the FRC's work has been to promote school attendance as a priority community objective. Families are referred to the FRC if their child has three unexplained school absences, allowing for early action to turn around poor attendance. In addition, each FRC site has attendance case managers who visit homes of absent children daily. Attendance rates at Cape York schools have correspondingly risen. The four Cape York communities have shown improvements in attendance or maintenance of higher levels of attendance since 2007.³²⁴ Aurukun attendance increased by 27.6% in Term 1, 2011 compared with Term 1, 2008. School attendance in Term 1, 2011 was 89.9% for Hope Vale and 93.5% for Coen. The Aurukun and Hopevale results are the highest for a single term since 2002.³²⁵

Our consultations have revealed that the Local FRC Commissioners have provided strong leadership by influencing families to take greater responsibility for school attendance. The FRC has helped to place 'school attendance' front and centre in the minds of community members. Almost every person we consulted in the four communities spoke about the improved school attendance rates. There also appeared to be a strong level of awareness within communities about which children were not regularly attending school and which families might need a hand.

It is one thing to get children to school, and clearly mere presence in the school environment is an important protective factor for children however, the next challenge is to engage them in the classroom. Once the Cape York Welfare Reform communities started to see improvements in school attendance, we were told that parents were asking why they were not necessarily seeing a corresponding improvement in their children's NAPLAN results. This concern, in part, led to the establishment of the Cape York Aboriginal Australian Academy.

Cape York Cape York Aboriginal Australian Academy

The CYAAA is a not-for-profit organisation led by Noel Pearson and Cape York Partnerships (CYP). It aims to close the academic achievement gap between Indigenous and non-Indigenous students and support Cape York children's bicultural identity.

In January 2010, the CYAAA was established to operate primary schools in partnership with Education Queensland. The CYAAA is operating in Aurukun, Coen and Hopevale. The Academy's program includes: teaching mainstream curriculum in English literacy and numeracy; extracurricular artistic, musical and sport programs; and Indigenous culture and language programs. The approach includes the 'direct instruction' teaching method and as discussed previously, provides student case management, to not only ensure that children are at school but to also address the health, nutrition, wellbeing and material needs which determine their capacity to engage in education.³²⁶

Student attendance case managers work with parents, students, schools and the broader community and are based in schools in three of the four CYWR communities. The case managers visit parents, make referrals to services, support parents in meeting their obligations and engage with community partners and service providers.³²⁷ We discuss the direct instruction and attendance case management in further detail in Chapter 5 – Investing in education.

Supporting the education model in the CYWR communities, is the Higher Expectations (Secondary) Program (HEP) which identifies and supports academically talented Indigenous students throughout the Cape and other Queensland communities, to complete secondary education and progress to tertiary studies. The program enables

322 Cape York Institute for Policy & Leadership, Land and Housing, *Position on Land and Housing*. www.cyi.org.au/landhousing.aspx. Accessed 16 September 2011.

323 There are 587 trusts and a balance of around \$600,000. Cape York Partnerships, *About Cape York Partnerships*. www.capecyorkpartnerships.com. Accessed 15 September 2011.

324 Queensland Government, Department of Communities, Aboriginal & Torres Strait Islander Services, *Annual Highlights Report for Queensland's Discrete Indigenous Communities July 2009 - June 2010*, p.iv.

325 Cape York Partnerships, *About Cape York Partnerships*. www.capecyorkpartnerships.com. Accessed 15 September 2011.

326 Cape York Partnerships, *About Cape York Partnerships*. www.capecyorkpartnerships.com. Accessed 15 September 2011.

327 Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Fact Sheets, *Education - Attendance Case Management Framework*, 2009.

students from Grade 8 to Grade 12 to attend Queensland's leading boarding schools and assists them through an often difficult social and educational transition process.³²⁸

³²⁸ Department of Families, Housing, Community Services and Indigenous Affairs, Cape York Welfare Reform Fact Sheets, *Higher Expectations Secondary Program (HEP)*, 2009.

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