



Fact Sheet

Co-Designing an Aboriginal and Torres Strait Islander Children's Commissioner in the ACT

The *Our Booris, Our Way Report* recommended that an Aboriginal and Torres Strait Islander Children's Commissioner role be established in the ACT. The ACT Government has committed to working with the community to shape the role, including the roles and functions, governance, relationships and process for the appointment of Commissioners. This work will be facilitated by the Jumbunna Institute of Indigenous Education and Research, UTS, led by Associate Professor Paul Gray, Distinguished Professor Larissa Behrendt and Professor Lindon Coombes.

The Co-Design Process

The co-design process is being overseen by the *Our Booris Our Way Implementation Oversight Committee* and the ACT Justice and Community Safety Directorate. Following distribution of this discussion paper, a series of community dialogues will be held to get the views of Aboriginal and Torres Strait Islander people in the ACT, community organisations, and other stakeholders. This will include consultation with the Wreck Bay community. A final proposed model will be developed in consultation with the *Our Booris Our Way Implementation Oversight Committee*, community stakeholders, and the ACT Government, leading to a final report that will inform the establishment of this important role.

Paris Principles

The co-design process is informed by the Paris Principles, the international standard for institutions to protect and promote human rights. These principles include:

- A **clear mandate** and **independent legal authority**, including powers of inquiry and investigation
- **Engagement** with key government, non-government and community stakeholders
- **Cooperation** with other human rights bodies, including raising awareness about human rights
- The opportunity to **influence systems and practice**, including public reporting
- **Clear, transparent and participatory** appointment processes
- **Adequate resources and systems** to deliver on their mandate

In addition to these principles, the right of Indigenous peoples to **self-determination** is also a key principle in thinking about this role and how it will do its work to protect and promote the rights of Aboriginal and Torres Strait Islander children and young people in the ACT.

Functions and Powers

In addition to a clear mandate to protect and promote the rights of Aboriginal and Torres Strait Islander children, the role must have the legal authority to deliver in this mandate. This might include:

- an explicit human rights mandate, or refer to principles such as wellbeing or best interests
- focus on specific systems (child protection, youth justice) or a broader responsibility
- a role in systemic or individual advocacy, or other functions such as handling complaints
- powers for inquiry and investigation, as well as requirements for public reporting

It is important to think about how these roles and functions may interact or create potential challenges, and how the Aboriginal and Torres Strait Islander Children's Commissioner can play a unique and

complementary role in protecting and promoting the rights and interests of Aboriginal and Torres Strait Islander children and young people.

Governance and Connections

The Aboriginal and Torres Strait Islander Children's Commissioner should have the independence to deliver on its mandate without interference, and work in a way that promotes accountability and builds confidence with Aboriginal and Torres Strait Islander children, their families and communities. In Australia, Commissioners tend to be independent statutory officers, with their own legal authority, or positioned as part of broader institutions, such as the ACT Human Rights Commission. They may be mandated or given the opportunity to establish advisory councils, and carry an expectation to engage broadly and respectfully with the communities they serve. They may report either to the Minister or directly to parliament, promoting transparency in their work, and raising awareness about human rights issues affecting Aboriginal and Torres Strait Islander children and young people.

These relationships should reflect the functions and powers of the role, and the unique roles of other stakeholders, including the government, service providers, and judiciary. This may include for example the Commissioner participating in child protection matters as a party, or providing independent reports to parliament about the impact of laws or government policies on Aboriginal and Torres Strait Islander children and young people.

Role Characteristics and Selection

The key characteristics, skills and values of the Aboriginal and Torres Strait Islander Children's Commissioner, as well as the selection process, is an important part of promoting transparency and community confidence in the role. While Commissioners tend to be appointed by a relevant Minister for a fixed term, there are opportunities for communities to be involved in this process, including participating in selection panels, or shaping the tasks and criteria used in the selection process.

More Information

We encourage Aboriginal and Torres Strait Islander community members to have their say about the proposed Aboriginal and Torres Strait Islander Children's Commissioner role. Community dialogues will be advertised in the coming weeks, taking into account current COVID-19 health orders. You can also contact UTS Jumbunna on (02) 9514 9655, or via email – Paul.Gray@uts.edu.au. You can also contact the *Our Booris Our Way Implementation Oversight Committee* secretariat via OBOWsecretariat@act.gov.au.



Relationships of the Aboriginal and Torres Strait Islander Children's Commissioner



Summary Table

	Principles	Comments
Functions and powers	Human rights mandate Inquiry and investigation	<p>Some similar roles have an explicit mandate to promote and advocate for the rights of children. Others refer to broad concepts such as safety, wellbeing, or best interests.</p> <p>Some roles are given a broad mandate, while others might be specifically oriented towards particular systems – child protection, youth justice etc.</p> <p>Many statutory officers tend to have a focus on systemic issues affecting children. Some include scope for individual advocacy or complaints resolution, while others are limited in their mandate for individual matters.</p> <p>Some include specific powers of inquiry, including under their own motion, or at the request of the Minister. This can include powers to compel documents, access to sites, or other requirement to complete investigations. In some circumstances, this includes offence provisions for non-compliance.</p>
Governance and connections	Independence Plurality Cooperation with other human rights bodies Relationship with community	<p>Commissioner roles in Australia tend to be independent statutory officers, invested with their own authority.</p> <p>Some report to the Minister, while others may report directly to parliament, or to a parliamentary committee.</p> <p>Commissioners may be able to establish relevant advisory councils, including involving young people, or be mandated to establish advisory councils.</p> <p>Commissioners may be positioned as part of a broader institution (such as the ACT Human Rights Commission, or the Australian Human Rights Commission), or established in a standalone fashion.</p> <p>Some existing Aboriginal officers (see for example Queensland, Victoria and NSW) are within child-focused statutory bodies, which may include delegated authority, or other statutory connections to a principle commissioner/statutory officer.</p>

		<p>Many develop working relationships with other statutory officers, such as Ombudsman or Guardians, whether or not this relationship is established in legislation.</p> <p>Few have explicit formal relationships to Aboriginal community structures established in legislation, however tend to foster strong working relationships through regular, respectful engagement with the community.</p>
<p>Role Characteristics and Selection</p>	<p>Selection</p>	<p>Commissioners most often tend to be appointed by the Minister for a fixed term, and may follow a publicly advertised recruitment process.</p> <p>In some circumstances, key stakeholders have been involved in recruitment processes, for example including young people or community representatives on the selection panel, contributing to recommendations to the Minister. Some include specific tasks to demonstrate capacity to engage effectively with children and young people.</p>