



Commissioner for Children and Young People
Western Australia

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Mr Chin Tan
Race Discrimination Commissioner
Australian Human Rights Commission
GPO Box 5218
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Dear Commissioner

Thank you for the opportunity to provide a submission regarding the Australian Human Rights Commission's (AHRC) Concept Paper for a National Anti-Racism Framework.

As the Commissioner for Children and Young People in Western Australia (the Commissioner), I review laws, policies, practices, and services that affect the wellbeing of all Western Australian (WA) children and young people. In doing so, I give priority to Aboriginal and Torres Strait Islander children and young people and those who are vulnerable or disadvantaged for any reason, including those who are culturally and linguistically diverse (CaLD).

In undertaking these responsibilities, I must also have regard for the United Nations Convention on the Rights of the Child (the UNCRC) which upholds the right of all children and young people to be protected from harm, to be safe, feel safe and be respected wherever they are, and to participate in making decisions that affect them.

I support your call for the Australian Government to develop a National Anti-Racism Framework (the Framework) that builds on existing Commonwealth commitments¹² to collectively strive for equitable and inclusive communities and fortify partnerships to address the many facets of racism. I have reviewed the Concept Paper for a National Anti-Racism Framework (March 2021) as well as the consultation questions and consultation feedback thus far as detailed in the National Anti-Racism Framework Submission Guide (October 2021) and the National Anti-Racism Framework Conversation and Consultation Guide (December 2021). My submission is structured according to selected consultation questions that appear across both the Submission and Conversation and Consultation Guides.

What can we do right now and over the coming months to ensure First Nations and multicultural community voices are at the centre of discussions about a National Anti-Racism Framework?

I strongly encourage the AHRC to engage directly with Aboriginal and Torres Strait Islander as well as culturally and linguistically diverse (CaLD) children and young people to ensure their perspectives are heard, and not only those of adult members of their families and communities. Children and young people have the right to be heard, to meaningfully participate in matters that affect them and to be included in actions that counter racism.

¹ Commonwealth of Australia, *National Agreement on Closing the Gap* (2020). <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap>

² Commonwealth of Australia, *The Multicultural Access and Equity Policy Guide* (2018). <https://www.homeaffairs.gov.au/mca/PDFs/multicultural-access-equity-policy-guide.pdf>

Children and young people's first-hand views that are unfiltered by adults will provide insight into their unique experiences and their fresh perspectives can offer creative solutions to entrenched and difficult problems. Throughout this submission I have included the insightful views of some of the many children and young people from diverse backgrounds that my office has engaged with.

"It all comes down to stereotyping...Don't judge a book by its cover. If you see one black fella do something wrong don't think they are all like that." (15 year-old)

I would welcome the opportunity to discuss how I could support the AHRC's direct engagement with children and young people particularly in WA to inform the Framework. My office collaborated with the National Office for Child Safety in 2020 and on their behalf, coordinated nation-wide consultations with diverse children and young people under 18 years. This resulted in creating national resources that promote children and young people's right to speak up and make a complaint when they feel unsafe or are unfairly treated.³

My office has produced resources to guide organisations and policy makers that could also assist the AHRC in planning engagement with children and young people over the coming months:

- *Participation Guidelines: Ensuring children and young people's voices are heard* (2021)⁶
- *Engaging with Aboriginal Children and Young People Toolkit* (2018)⁷

Why do you think a National Anti-Racism Framework is important?

The Concept Paper identifies that there is currently no framework to tackle racism unlike for other issues of national importance, including domestic violence and child abuse. This discrepancy should be addressed and I support the reasons identified in the draft Concept Paper as to the necessity of developing a National Anti-Racism Framework.

However, I strongly recommend that a specific rationale regarding the importance of an Anti-Racism Framework to children and young people is added in the revised Concept Paper. I highlight throughout this submission why concerted anti-racism efforts are essential to avert the negative developmental impacts racism has on children and young people and their life trajectories and I would welcome the revised Concept Paper incorporating this rationale.

"Racism is probably one of the main things that people face a lot. I've seen a lot of racism." (17 year-old)

Children may simultaneously face racism in several forms such as interpersonal racism experienced through verbal and written communication, systemic racism from prejudicial treatment and unfair access to opportunities, and internalised racism that can lead to negative self-worth and fixed mindsets.⁸

Children who are exposed to unfair and avoidable acts caused by racism are harmed in fundamental ways, and systemic racism experienced in different social and human service systems can exacerbate the impacts. For example, limited or poor housing conditions are

³ <https://www.cyp.wa.gov.au/our-work/projects/helping-children-and-young-people-to-make-a-complaint/>

⁶ <https://www.cyp.wa.gov.au/media/4602/ccyp-participation-guidelines-2021-web4.pdf>

⁷ <https://www.cyp.wa.gov.au/our-work/resources/aboriginal-and-torres-strait-islander/engaging-with-aboriginal-children-and-young-people-toolkit/>

⁸ VicHealth 2014, Localities Embracing and Accepting Diversity (LEAD) program: summary report, Victorian Health Promotion Foundation, Melbourne, Australia

associated with childhood illnesses for Aboriginal and Torres Strait Islander children and can lead to poor health and mental health outcomes in adulthood.⁹

"I was crying because all my power, all my freedom of speech was taken away from me...He's white, I'm black. He's a big man, I was just a 16 year-old kid in jail!" (16 year-old)

There are strong indications that racism negatively affects children and young people's physical and mental wellbeing.¹¹ A mother's exposure to racism before her child is born has been linked to low birthweight or preterm birth, and children and young people with poor physical health are more likely to develop chronic illnesses in their adulthood.¹² Children and young people who experience racism are more likely to experience depression and anxiety,¹³ and Aboriginal and Torres Strait Islander and CaLD children and young people suffer poor mental health outcomes and report diminished life satisfaction because of racism.^{14,15}

"When I came I didn't know how to speak English. People made fun of me when I was younger, when I didn't know how to speak English. They used to call me 'stupid' and stuff, and I thought I should just give up, I don't want to do this anymore." (15 year-old)

Children experiencing racism report being angry and frustrated by systemic, intentional, or unintentional discrimination and describe feeling socially excluded and having less access to health and mental health services.¹⁶

"I did self-harm and started committing self-harm 'cause I was getting bullied for my dark skin." (17 year-old)

Compared to other children, those experiencing racism are more likely to have greater challenges and poorer outcomes and report being prevented from full participation in their communities because they do not feel they belong.¹⁷

"Yeah, I didn't know how to be myself. I thought maybe if I acted white then I would – they would accept me as one of them. No one wanted to be my friend, I was black. I was different." (18 year-old)

"Racism among my peers has been a major contributor in making my life in Australia hard. Not only am I susceptible to racism by my peers, but also by both adults and a majority of primary children." (16 year-old)

Children and young people experiencing racism are not a homogenous group. In addition to their cultural diversity, they are diverse in ages, abilities, experiences, regions, interests, and beliefs. These differences impact on their overall wellbeing, sense of belonging, culture, communities, or settlement experiences. There is a clear need for systems, services, and

⁹ Priest, N., Paradies, Y., Stevens, M. & Bailie, R. 2012. Exploring relationships between racism, housing and child illness in remote indigenous communities. *J Epidemiol Community Health*, 66, 440-447.

¹¹ Trent, M., Dooley, D. G. & Doug , J. 2019. The Impact Of Racism On Child And Adolescent Health. *Pediatrics*, 144, E20191765.

¹² Ibid.

¹³ Cave, L., Shepherd, C. C. J., Cooper, M. N. & ZUBRICK, S. R. 2019. Racial discrimination and the health and wellbeing of Aboriginal and Torres Strait Islander children: Does the timing of first exposure matter? *SSM - population health*, 9, 100492-100492.

¹⁴ Ibid.

¹⁵ Mansouri, F., Jenkins, L., Morgan, L. & TAOUK, M. 2009. The impact of racism upon the health and wellbeing of young Australians. Settlement Council of Australia.

¹⁶ Ibid.

¹⁷ Trent, M., Dooley, D. G. & Doug , J. 2019. The Impact Of Racism On Child And Adolescent Health. *Pediatrics*, 144, E20191765.

mainstream communications to be mindful and respectful of these differences and flexible in terms of what this means for supporting diverse children and young people's wellbeing.

What existing principles, plans and frameworks principles should guide the Framework?

I support the Concept Paper's recognition that the Framework must be informed by Australia's obligations under international human rights law, including the UNCRC amongst the other human rights treaties noted in the Concept Paper. I also agree that the Framework should build on relevant existing commitments made by Australian governments in the National Agreement on Closing the Gap and through the process to develop a national voice for Aboriginal and Torres Strait Islander peoples.

The Framework must also be aligned with the National Principles for Child Safe Organisations (the National Principles).¹⁸ The Commonwealth government has developed its own child safe framework to give effect to the National Principles which were agreed by the Council of Australian Governments in 2019. National Principle Four requires that equity is upheld, and diverse needs respected by organisations working with children and young people. An Anti-Racism Framework could play an important role in promoting the action areas required by the National Principles.

What do you think about the Framework's proposed guiding principles?

I support the eight guiding principles identified in the Concept Paper; however I strongly believe a principle should be added that specifically recognises that particular regard is needed towards children and young people. I also agree with feedback to date on the guiding principles that has affirmed the importance of an intersectional approach to addressing racism and the importance of healing through trauma-aware approaches to respond to the cumulative harm racism does to individuals and communities.¹⁹

What outcomes and strategies are necessary for the Framework to create change?

I broadly support the proposed National Outcomes; however, I would like to see a more explicit focus on intervention in early childhood and school settings to cultivate anti-racism as well as support children and young people who have been subject to racism. I believe this focus warrants elevation to the level of a specific outcome.

Section 6 of the Concept Paper identifies examples of what a National Framework might look like and states an example priority as, "implementation of the National Anti-Racism Strategy with a particular focus on young people".²⁰ Unfortunately, this example priority was not carried over to the current draft Framework, and I urge this be reconsidered.

The Submission Guide presents feedback which identifies the opportunity to merge several existing outcomes and I suggest that a child focussed outcome could potentially be accommodated in a revised Framework without increasing the overall number of outcomes. Feedback in the Submission Guide also identified the possibility of removing National Outcome 7 and I observed that most feedback against this outcome pertained to the importance of education settings for children and young people. This feedback bolsters the case for development of a new outcome framed around preventing racism in the early years of children's lives and supporting children subject to racism.

¹⁸ <https://humanrights.gov.au/sites/default/files/National%20Principles%20for%20Child%20Safe%20Organisations.pdf>

¹⁹ https://humanrights.gov.au/sites/default/files/2021-10/ahrc_narf_submission_guide_oct_2021.pdf

²⁰ https://humanrights.gov.au/sites/default/files/document/publication/ahrc_cp_national_anti-racism_framework_2021_.pdf

"I think that it would be helpful to see more acceptance of people that are different. I live in a predominantly white neighbourhood and I often feel pretty isolated and judged. I get followed when I go to the shops because people think I'm gunna shoplift. It's a bit upsetting being judged all the time when I just want to be accepted." (16 year-old)

Children and young people's needs must not only be addressed through the addition of a specific child focussed outcome but be considered within each of the proposed National Outcomes. This will ensure that the specific needs of children and young people are centred both in terms of supporting them to develop as allies for anti-racism; as well as addressing the particular vulnerabilities of children and young people subject to racism. Across the following pages specific feedback is provided about select proposed National Outcomes.

National Outcome 1: The nature, prevalence, and incidence of racism in Australia is understood

Data measures must be sensitive to a wide range of children and young people and designed to capture key information about their situations. More specific and targeted research is needed to understand the spectrum of harm experienced by children who are exposed to oppressive actions, attitudes, norms, and practices that perpetuate racism.

"I am important – ask me what I think...I have good ideas." (9 year-old)

I also support the related strategy proposed under National Outcome 7 for data collection across all national frameworks to be "disaggregated by ethnicity to identify where there are unequal outcomes based on ethnic background or race".

My office promotes the views of children and young people by collecting data and sharing the findings from a range of research projects, consultations and surveys that engage with children and young people. Tri-annually, my office conducts the Speaking Out Survey,²⁶ in the 2021 survey over 16 000 school students from diverse backgrounds and regions of WA share their experiences and views on safety, mental health, engagement in education, connection to community and how they access sources of support. I would be happy to discuss with the AHRC the possibility of adapting the 2024 Speaking Out Survey to include a question about children's experiences of racism to alleviate current data gaps.

National Outcome 4: Community based supports exist for people targeted by racism and racial discrimination

Young people have told my office that being exposed to hateful representations prevalent throughout social media are damaging and I agree with stakeholder feedback in the Submission Guide calling for more accountability for media providers and on social media platforms.

"There's these little funny things on the internet. Like most people can sit there and laugh and joke but really it's pretty offensive. Like that song, 'I can't feel my face when I'm with you', and the song is changed to, 'I can't feel my face when I sniff glue' and there's a black fella sitting there. A lot of people can sit there and laugh but...Do you know people who sniff glue? My older brother used to sniff glue every day...It's only funny if you haven't been around it." (16 year-old)

²⁶ Commissioner for Children and Young People, Speaking Out Survey (Webpage) <https://www.ccp.wa.gov.au/our-work/projects/speaking-out-survey/>

National Outcome 7: All Australian governments commit to addressing racial inequality and adopt targeted and appropriate measures to address it

I agree with other stakeholders' feedback on the Framework that identifies the need for "a greater focus on criminal justice reform"²⁷ and stronger alignment with strategies led and advocated by Aboriginal and Torres Strait Islander leaders about breaking the cycles of trauma between child protection, youth detention and incarceration.

Aboriginal children and young people in the justice system have described racism and school disengagement as factors that have contributed to their criminal behaviour.²⁸

"[Racist experiences were] through my primary school to my high school and I dropped out in Year 9. I didn't even graduate cause of bulliness. I'm supposed to be in Year 12 today and I still haven't gone back to school." (17 year-old)

The Concept Paper identifies "supporting inclusive education" as an action in the draft Framework and I agree this is essential because schools are places where children and young people are more vulnerable to racism in various forms.²⁹

"The first thing that everyone sees, even before I talk, they know that I'm a Muslim and they make certain assumptions about me based on that and their attitude changes, some of them. You kind of get offended when someone stereotypes you and makes assumptions about you based on other things that are going on around the world." (16 year-old)

I suggest the AHRC considers including actions that support teachers and other school staff to cultivate anti-racist attitudes, knowledge, and skills. For example, the Framework could be linked to the Australian Professional Standards for Teachers – English as an Additional Language or Dialect (EAL/D)³⁰ and to other relevant national and state based education standards and accreditation systems.

"The children of [my town] [...] don't like going to school because they know that there are people in the school that are just there to work and make money. They can tell when people don't care about them. They need people that care about them, people that are willing to give them their own time to listen and help and be their friends." (17 year-old)

The Framework must address systemic racism in the child protection system. In WA, Aboriginal and Torres Strait Islander children continue to be overrepresented in out-of-home care and are eleven times more likely to be subjected to a substantiated child protection notification compared to other children.³² It is particularly important for Aboriginal and Torres Strait Islander children's identity and wellbeing to know who they are and where they are from³⁶ however, maintaining a strong link to communities and practicing culture is difficult to achieve in the child protection system. Aboriginal and Torres Strait Islander children have repeatedly told my office that they face compounding adverse experiences and need to experience unconditional positive regard from systems and service providers who listen to them and demonstrate cultural respect.

²⁷ Conversation and Consultation Guide, December 2021

²⁸ <https://www.cyp.wa.gov.au/our-work/projects/youth-justice-consultation/>

²⁹ Uptin, J., Wright, J. & Harwood, V. 2013. 'It felt like i was a black dot on white paper': examining young former refugees' experience of entering Australian high schools. *Australian educational researcher*, 40, 125-137.

³⁰ 17 January 2022 60238-EALD-elaborations-Short-Version-Complete-v2.pdf (tesol.org.au)

³² <https://www.cyp.wa.gov.au/our-work/indicators-of-wellbeing/age-group-12-to-17-years/safe-in-the-home/>

³⁶ Krakouer J et al 2018, "We Live and Breathe Through Culture": Conceptualising Cultural Connection for Indigenous Australian Children in Out-of home Care, *Australian Social Work*, Vol 71, No 3.

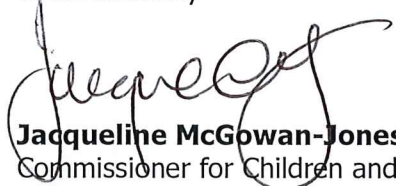
It is important that the Framework also gives attention to children and young people in contact with the youth justice system, many of whom are also involved in the child protection system and disengaged from school. The overrepresentation of Aboriginal and Torres Strait Islander children and young people in the criminal justice system in Australia is well documented and even more prevalent in WA, where in 2018–19, they were 18 times more likely to be under community-based supervision and 45 times more likely to be in detention on an average day compared to non-Aboriginal young people.³⁷

"It's disgusting. Especially because, me I'm Aboriginal. And with my culture, we come from slavery and this just takes us basically back to those days...Like my grandfather, he grew up when all that stuff was happening...and now I'm in [custody] I know how it feels, like slavery." (15 year-old)

Systemic racism in the child protection and justice systems should be addressed at all levels including community engagement, systems that invest in knowledge and preventative measures, and through policies such as the National Aboriginal and Torres Strait Islander Early Childhood Strategy³⁹ that work towards the elimination of systemic racism.

I hope that the needs of children and young people as outlined throughout my submission are more strongly reflected in the revised Concept Paper for an Anti-Racism Framework. I look forward to supporting the development of a National Anti-Racism Framework and would be happy to discuss my submission or provide any further information required. If you wish to do so, please do not hesitate to contact Laura Jackman, Senior Policy Officer via telephone 08 6213 2297 or email laura.jackman@ccyp.wa.gov.au.

Yours sincerely



Jacqueline McGowan-Jones

Commissioner for Children and Young People WA
10 February 2022

³⁷ Australian Institute of Health and Welfare (AIHW), *Youth Justice in Australia 2018–19*, Table S134c

³⁹ 21 January 2022 <https://www.niaa.gov.au/sites/default/files/publications/niaa-early-years-strategy-5.pdf>