

BRIEFING PAPER

CLOSING THE GAP

THE **ESSENTIAL** MEMBERSHIP FOR
THE LEGAL PROFESSION

Prepared by the Law Society of Western Australia

lawsocietywa.asn.au

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CLOSING THE GAP

Background

Historically, the Closing the Gap strategy is a long-term, Coalition of Australian Governments (COAG) framework that builds on the foundation of respect and unity provided by the 2008 National Apology to Aboriginal and Torres Strait Islander Peoples.

In 2008, COAG agreed to six ambitious targets to address the disadvantage faced by Indigenous Australians in life expectancy, child mortality, education and employment.

In December 2018, COAG committed to forming a genuine formal partnership with Indigenous Australians to finalise the Closing the Gap Refresh and provide a forum for engagement throughout the implementation of the new agenda.¹

COAG also released a draft Closing the Gap framework, including draft targets that consist of new and existing targets, including justice targets.² However, the Change the Record coalition considered that these justice targets were not adequate enough to address the issue.³

In February 2019, the Closing the Gap Report was released and presented to Parliament. This was the final report of the 2008 framework. The report indicated that only two of the Closing the Gap targets were on track to be met after 11 years.⁴

In February 2020, a further Closing the Gap Report noted that, in partnership with Aboriginal and Torres Strait Islander people, the Government was moving towards a new National Agreement on Closing the Gap setting out priorities for the next ten years. It was again reported that, though some progress was being made, only two of the Closing the Gap targets are on track to be met.⁵

In July 2020, a new National Agreement on Closing the Gap was released. It focuses on 16 targets to improve outcomes in education, employment, health and wellbeing, justice, safety, housing, land and

waters, and languages.⁶ The objective of the National Agreement is to enable Aboriginal and Torres Strait Islander people and governments to work together to overcome the entrenched inequality experienced by Aboriginal and Torres Strait Islander people, and achieve life outcomes equal to all Australians.⁷

Policy position

Law Council Australia

The Law Council of Australia has formulated a policy position with respect to these issues and has been advocating for, among other things, giving Indigenous Australians a meaningful voice in respect to the laws and policies that affect them through a constitutionally enshrined Voice to Parliament.⁸

Law Society of Western Australia

In February 2016 the Law Society of Western Australia resolved to commence a strategic campaign known as ‘Closing the Gap’ with an emphasis on the spiralling rates of incarceration of Aboriginal and Torres Strait Islander peoples in Western Australia.

The Law Society has, for example, advocated for the repeal or amendment of laws which provide for a penalty of imprisonment for offences arising from a fine default and supported the initiatives of the garnishing of Centrelink benefits and salaries by employers and companies as alternative solutions. In June 2020, the Law Society welcomed the passing of the *Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2019 (WA)*, which will see imprisonment for non-payment of fines restricted so it can only be ordered by a Magistrate, and even then only as a sanction of last resort. The amendments also include the introduction of garnishee orders.⁹

Currently the Law Society’s campaign is being advanced by the work of the Indigenous Legal Issues Committee, the Aboriginal Incarceration and

Justice Reinvestment Working Group and the Law Society's Reconciliation Action Plan (RAP) Working Group.

NOTES

1. Department of Prime Minister and Cabinet, 'Closing the Gap' (Web Page) <<https://pmc.gov.au/indigenous-affairs/closing-gap>>.
2. Department of Prime Minister and Cabinet, 'Closing the Gap' (Web Page) <<https://closingthegap.pmc.gov.au/>>.
3. Change the Record, 'Australians want Prime Minister to act to Close the Gap on justice' (Web Page, 14 February 2019) <<https://changetherecord.org.au/blog/news/australians-want-the-primeminister-to-act-to-close-the-gap-on-justice>>.
4. Change the Record, 'Australians want Prime Minister to act to Close the Gap on justice' (Web Page, 14 February 2019) <<https://changetherecord.org.au/blog/news/australians-want-the-primeminister-to-act-to-close-the-gap-on-justice>>.
5. Australian Government, 'Closing the Gap Report 2020' (Web Page) <<https://ctgreport.niaa.gov.au/content/closing-gap-2020>>.
6. Australian Government, 'National Agreement on Closing the Gap: At a Glance' (Web Page) <<https://www.closingthegap.gov.au/national-agreement-closing-gap-glance>>.
7. Australian Government, National Indigenous Australians Agency, 'A new National Agreement on Closing the Gap' (Web Page, 30 July 2020) <<https://www.niaa.gov.au/news-centre/indigenous-affairs/new-national-agreement-closing-gap>>.
8. Law Council of Australia, 'Closing the Gap report shows Indigenous input vital' (Web Page, 12 February 2020) <<https://www.lawcouncil.asn.au/media/media-releases/closing-the-gap-report-show-indigenous-input-vital>>.
9. Law Society of Western Australia, 'The Law Society welcomes comprehensive reform package to WA's fine enforcement regime' (Web Page, 17 June 2020) <https://www.lawsocietywa.asn.au/news/the-law-society-welcomes-comprehensive-reform-package-to-was-fine-enforcement-regime/?utm_medium=email&utm_campaign=Friday%20Facts%20190620&utm_content=Friday%20Facts%20190620+CID_a72d07a0ba7656e7e4d9de97ec597b07&utm_source=ENewsletters&utm_term=Media%20Statement>.

Policy Position

The Law Society of Western Australia seeks the support of all parties to:

- consider the new targets, including justice targets, under the National Agreement on Closing the Gap, to ensure the targets work towards reducing rates of Indigenous imprisonment and violent offending;
- establish a national agency to collect and evaluate comprehensive data on corrections, law enforcement, juvenile justice and diversionary measures, to inform government policies around crime and imprisonment; and
- abolish mandatory sentencing laws.



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