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AND CULTURAL RIGHTS
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**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC,
SOCIAL AND CULTURAL RIGHTS**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
IN ACCORDANCE WITH ARTICLE 16 OF THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Replies by the Government of Australia to the list of issues (E/C.12/AUS/Q/4)
to be taken up in connection with the consideration of the fourth periodic
report of Australia (E/C.12/AUS/4)**

AUSTRALIA*

[11 February 2009]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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I. GENERAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

Question 1. Please indicate the measures, including training and awareness-raising for law enforcement officers, undertaken to combat discrimination against migrants, persons of foreign origin and indigenous people in the fields of employment, housing, health care, education and culture.

1. Australia's human rights and workplace relations laws provide people with protection from discriminatory practices.
2. The Racial Discrimination Act 1975 (Racial Discrimination Act) protects people from discrimination or harassment based on their race, colour, descent or national or ethnic origin in the workplace and various parts of public life. The Australian Human Rights and Equal Opportunity Commission¹ is responsible for administering the Racial Discrimination Act. Individuals can lodge complaints of discrimination with HREOC.
3. Actions in the workplace that may attract remedies under the Racial Discrimination Act include discrimination in:
 - (a) Refusal or failure to employ where work is available and the person is qualified;
 - (b) The terms and conditions of employment offered or afforded;
 - (c) Access to opportunities for promotion or training; and
 - (d) Dismissal.
4. The Workplace Relations Act 1996 (WR Act) further protects vulnerable workers against discrimination on the basis of race, colour, national extraction or social origin.
5. Discriminatory conduct for which a remedy is available under the WR Act is limited to termination of employment on specified discriminatory grounds including race, colour, national extraction or social origin.
6. Compliance with workplace relations legislation is provided by the Workplace Ombudsman. The Workplace Ombudsman, his Office and his Inspectors provide services to:
 - (a) Assist workers and employers to understand their rights and obligations under federal workplace law;

¹ The Human Rights and Equal Opportunity Commission has been known as the Australian Human Rights Commission since September 2008, although its legal name remains the Human Rights and Equal Opportunity Commission. Legislation that is before Parliament proposes to formally change the Commission name to the Australian Human Rights Commission.

- (b) Promote and monitor compliance with federal workplace law, including by providing assistance and advice and disseminating information;
- (c) Investigate complaints or suspected contraventions of federal workplace law;
- (d) Inquire into any act or practice that may be contrary to federal workplace law;
- (e) Institute proceedings to enforce federal workplace law; and
- (f) Represent workers who are, or might become, a party to proceedings under the WR Act.

7. On 25 November 2008, the Australian Government introduced the Fair Work Bill 2008 (the Bill) into the Australian Parliament. The Bill provides for a new workplace relations system to commence from 1 July 2009 and be fully operational from 1 January 2010. However, the proposed National Employment Standards and modern awards will commence on 1 January 2010.

8. Note that in relation to paragraph 5 above, the Bill proposes expanding on the current legislation by providing remedies for discrimination in employment generally, not just in relation to dismissal. This includes, among other things, refusing to employ a person or prejudicially altering the position of the employee, on the basis of race, colour, national extraction or social origin.

9. Effective compliance with legal obligations is an important component of the new workplace relations system. The Bill will establish a new institutional framework made up of Fair Work Australia and the Office of the Fair Work Ombudsman to assist employers, employees and organizations to comply with the new workplace relations laws and, where necessary, take steps to enforce the laws through the court system.

10. The Australian Government aims to achieve fairer and more accessible government services and programmes through its Access and Equity strategy. The strategy promotes fairness and responsiveness in the design, delivery, monitoring and evaluation of government services in a culturally diverse society.

11. The strategy guides government services in meeting the needs of Australians, irrespective of their linguistic and cultural backgrounds, creating opportunities for them to achieve their potential and participate fully in society. The annual report on agencies' performance in responding to their clients' cultural and linguistic diversity is currently being prepared and will be tabled in parliament later this year.

12. Under programmes such as Living in Harmony, the Government funds projects which encourage community groups to develop positive relationships which reduce the likely occurrence of discriminative actions. An example is a recent project which brought together Sudanese and North African families to participate actively in a range of sporting and cultural projects, as well as provide increased opportunities for paid work experience with the local Police Community Youth Club.

13. An important role of the Australian Human Rights and Equal Opportunity Commission, Australia's national human rights institution, is to raise awareness of human rights and to combat discrimination against all Australians, including migrants, persons of foreign origin and Indigenous people. The Commission also provides a range of specific education and training services such as National Indigenous Legal Advocacy Courses, which are intended to empower Indigenous peoples by building their capacity to understand and access government services and mechanisms for the protection of their human and legal rights.

14. The Commission's role also includes reviewing the impact of laws and policies on Indigenous peoples, reporting on Indigenous social justice and native title issues and promoting an Indigenous perspective on issues. A designated Commissioner monitors the enjoyment and exercise of human rights for Indigenous Australians and produces an annual Social Justice and a Native Title Report, which must be tabled in Parliament.

15. The Commission is specifically addressing discrimination concerns with law enforcement officers through the TRUST poster initiative. TRUST stands for Treat, Record, Understand, Supply and Train and the poster provides guidelines to help improve the monitoring of, and response to, racial and religious hatred by police. The poster is part of a collaborative project between the Commission and New South Wales Police to develop resources so that law enforcement agencies can better deal with acts of racial and religious hatred and abuse.

16. The Commission has also produced better practice guidelines for employers for recruitment and selection of employees to ensure requirements of anti-discrimination laws are met. The Commission has developed a range of useful resources for use in Australian workplaces including the Good Practice, Good Business CD-Rom and a range of fact sheets and brochures. Employers can use these resources as part of internal induction sessions, or as a useful starting point when developing internal policies in the workplace.

New Employee Programmes

17. The Australian Federal Police (AFP) New Employee Programs (NEP) includes cultural awareness training which considers policing in different cultures and ethnic groups. This training includes exposure to the AFP's Indigenous Liaison and the Reconciliation Action Plan (ICLO) and Cross Cultural Awareness training. The training also incorporates exposure to the Islamic culture with addresses by the NSW Muslim Women's Group on the specific challenges Muslim women have with the law/policing in a secular society.

18. The AFP offers a two-day introduction to Islamic Awareness in Australia and South East Asia and a five-day advanced course. These courses are offered to AFP members in counter terrorism teams as well as relevant members in joint (CT) teams from State police services and other Australian Government agencies.

19. The AFP provides specialized pre-deployment briefings to its peacekeeping and liaison officers which includes targeted cultural information relative to the country of deployment.

Measures for Indigenous Australians

20. Australian governments, through the Council of Australian Governments (COAG) process, have agreed to a set of targets addressing Indigenous education and employment disadvantage. These are:

(a) Within five years all Indigenous four year olds in remote communities will be able to attend a proper early childhood centre or opportunity;

(b) Within a decade the gap between Indigenous and non-Indigenous students in reading, writing and numeracy benchmark achievement will be halved;

(c) Within a decade the gap in employment outcomes between Indigenous and non-Indigenous Australians will be halved; and

(d) By 2020 the gap between Indigenous and non-Indigenous Australians in the attainment of Year 12, or its vocational equivalent, will be halved.

21. In order to achieve these targets, Australian governments have implemented a range of programmes and initiatives to combat discrimination in the fields of education and employment. These include initiatives enabling Indigenous students from rural and remote areas access to a greater range of secondary schooling and vocational education and training options, expansion of accelerated literacy and numeracy programmes, and reforms to Indigenous employment programmes, as well as funding targeted at specific areas of need.

22. In addition to Australia's strong anti-discrimination legislation, which applies equally to migrants, persons of foreign origin and Indigenous people as to others in Australia, there are a number of measures that the Australian Government has taken to combat discrimination.

National Judicial College of Australia Cultural Awareness Training

23. \$500,000 will be spent over four years to fund the National Judicial College of Australia to deliver cultural awareness training to assist judges and magistrates to better understand Indigenous issues.

24. The College has established a system of committees of judicial officers across Australia to develop and deliver the Indigenous cultural awareness programmes. The National Committee drafted a curriculum to guide the development of programmes which was finalised following consultation with judicial officers and Indigenous representatives. The Committees are now developing programmes based on the curriculum including criminal sentencing, customary law and cultural principles and appropriate administration of bail regimes. An initial allocation of funding for the programme (\$174,000) was paid to the College in 2007-08 for distribution through State committees and a further payment (\$122,000) has been made in 2008-09. The programme will be evaluated in 2010-2011.

Community legal education

25. Indigenous-specific community legal education (CLE) projects aim to empower Indigenous Australians in remote and rural communities to report and challenge violence and child abuse, by providing information about their legal and human rights, including how to access a range of support services. The programme will also provide Indigenous Australians with the information necessary to address violence and child abuse in local communities. It will also support local leaders to develop stronger partnerships between service providers and communities. The total budget (07/08-10/11) for this initiative is \$4.23 million.

Legal Aid for Indigenous Australians Program

26. The Legal Aid for Indigenous Australians Program provides professional and culturally sensitive legal aid services for Indigenous Australians, including Indigenous women. The Program funds a network of Indigenous Legal Aid Service Providers to deliver legal services at 84 permanent sites, court circuits and outreach locations in metropolitan, rural and remote areas across Australia. Indigenous people also access legal assistance services through legal aid commissions in each State and Territory. In 2007-08, five per cent of approved applications for legal aid were for Indigenous people.

27. In addition, the Australian Government also funds the Law and Justice Advocacy Development (LJAD) program. The objective of the programme is to advocate for the advancement of the legal rights of Indigenous Australians by promoting effective co-operation, coordination and liaison between Indigenous Australians, State, Territory and Australian governments and other bodies through advocacy, research and community-level education.

Northern Territory Indigenous Interpreter Service

28. The Australian Government jointly funds the Northern Territory Aboriginal Interpreter Service (NTAIS) under a bilateral agreement between the Australian and Northern Territory Governments. This current agreement is from 2006-07 to 2009-2010 with the Australian Government providing \$4.576m. The Australian Government has allocated an additional \$0.8m in 2008-09 to meet demand associated with the Northern Territory Emergency Response. The objective of the NTAIS is to assist in alleviating the language barriers faced by Indigenous people throughout the Northern Territory, particularly in relation to health and legal issues.

Indigenous Women's Outreach Program

29. Through the Commonwealth Community Legal Services Program, the Australian Government funds eight organizations across Australia to operate Indigenous Women's Projects, providing culturally appropriate legal services for Aboriginal and Torres Strait Islander women.

Family Violence Prevention Legal Services

30. The Australian Government funds 31 Family Violence Prevention Legal Services (FVPLS) units, which are located predominantly in regional and remote areas of Australia. The primary

focus of each FVPLS unit is to provide culturally appropriate assistance to Aboriginal and Torres Strait Islander adults and children who are victims of family violence, including sexual abuse. The primary function of the units is to provide legal assistance, casework, counselling and court support.

State/territory responses

Australian Capital Territory

31. General measures include:

- (a) Education and/or training for health staff in interpreter use, cultural respect, and equity and diversity;
- (b) Public consultation inclusive of people from diverse backgrounds regarding health services;
- (c) Publication of health service related information in other languages;
- (d) Representation on a range of committees and forums specific to CALD issues, locally and nationally;
- (e) Inclusion of a Commissioner for Health Services on the ACT's Human Rights Commission.

32. Measures for specific groups include:

- (a) Implementation of the ACT Health Cultural Respect;
- (b) Implementation Plan 2006-2009 which addresses the aims and objectives of the Australian Health Ministers Advisory Council's Cultural Respect Framework for Aboriginal and Torres Strait Islander Health 2004-2009. The Plan is designed to improve cultural sensitivity of ACT Health staff to Aboriginal and Torres Strait Islander cultures;
- (c) Implementation of the Aboriginal Health Impact Statement (AHIS). The aim is for the ACT Government to consider the impact of its work on Aboriginal and Torres Strait Islander health and to demonstrate respect for the culture and well-being of Aboriginal and Torres Strait Islander people in regards to new strategies, policies and programmes. The AHIS represents a declaration that appropriate consultation and negotiation processes have taken place, and that Aboriginal and Torres Strait Islander interests have been properly considered;
- (d) The Aboriginal Liaison Officer (ALO) service at the Canberra Hospital provides support and information to both Aboriginal and Torres Strait Islander inpatients and outpatients and their families about the range of services provided at the Canberra Hospital. This includes referrals to both government and non-government agencies for follow up when discharged from hospital;

(e) A range of activities relating to trans-cultural issues in mental health services continue to be pursued including the use of a Culturally and Linguistically Diverse (CALD) specific training package for mental health clinicians;

(f) A broad range of health services to ensure equitable access of specific groups, for example: free public hospital services to Medicare Ineligible Asylum-Seekers; funding of health services at Companion House to victims of trauma and torture; funding of services at Winnunga Nimmityjah Aboriginal Health Service (WNAHS) to provide culturally appropriate services to Aboriginal and Torres Strait Islander people; preparatory work for an Aboriginal and Torres Strait Islander alcohol and drug residential rehabilitation service etc.

New South Wales

33. The Anti-discrimination Act 1977 contains prohibitions against discrimination on the basis of race in the areas of employment, education, provision of goods and services, and accommodation. Race is defined to include 'colour, nationality, descent and ethnic, ethno-religious or national origin', and would cover the groups indicated.

Queensland

Employment

Immigrant, refugee and minority women and girls

34. Under the Muslim Labour Force Participation project, gender-specific programmes such as the Muslim Childcare Work Placement Program have been developed to target identified vocational pathways. This programme commenced in 2007 and now has 12 participants.

35. Multicultural Affairs Queensland provides grants to a number of community organizations. Recently funded projects include:

(a) African Women's Information Expo held in May 2008 which offered seminars and workshops for African women in the Logan area to develop their skills and provide opportunities in event management, mentoring and networking;

(b) Developing Leadership and Management Expertise project developed by Al-Nisa Youth Group which aims to build leadership capacity among young Muslim women;

(c) Your Rights at Work: A Seminar for Women which targeted Queensland women of culturally and linguistically diverse backgrounds to improve their working conditions, ensure understanding of their rights, and reduce workplace exploitation.

Indigenous Working Women's Fund

36. Under the Indigenous Working Women's Fund, two grants of up to \$50,000 each were available for a programme or initiative that focuses on supporting Indigenous women to obtain, or remain, in employment in a non-traditional role.

37. Wide Bay Institute of TAFE has been funded to support up to 14 Indigenous women in a nine-month, full time prevocational programme for non-traditional career paths such as the automotive, engineering and construction industries. This programme will include accredited first aid, construction industry safety and cultural awareness courses, and non-accredited training including Indigenous mentoring, visits to industry workplaces and networking with employers.

38. Central Queensland Institute of TAFE has been funded to support up to 20 Indigenous women, in the Mackay and Rockhampton areas, to participate in a construction industry-related training programme tailored to their needs. This programme will feature industry visits, vocational placements and mentor and learning support, with a view to these women being job-ready upon its completion.

Reparation to Indigenous people

39. The Queensland Government is currently settling claims for racial discrimination suffered by workers on former mission settlements by non-payment of award wages in the period 1975-1986. This initiative supplements an earlier administrative scheme which provided \$A39 million compensation to former Government workers who suffered discrimination through non-payment of award wages during this period.

40. The Queensland Government has also offered reparation to Aboriginal and Torres Strait Islander people who suffered as a result of discriminatory legislative and regulatory controls over their wages and savings from the late nineteenth Century to the 1980s. Approximately A\$40 million has been allocated for payments to individuals who experienced these controls.

Government Employment - Department of Education, Training and the Arts (DETA)

41. As the largest employer in Queensland, the Department of Education, Training and the Arts (DETA) is committed to equal employment opportunity and to creating inclusive work environments that are free from all forms of unlawful discrimination and where people are valued for their diverse culture, experiences, knowledge and abilities.

42. The Department's Workforce Diversity and Equity Framework for Action 2006-2008 contains innovative and responsive programmes for all employees as well as initiatives tailored specifically for women, employees from a non-English speaking background and employees with a disability.

43. A network of Equity Contact Officers was established in June 2007 to manage proactively and provide advice to employees on anti-discrimination issues as well as the Department's workforce diversity and equity policies, programmes and employment frameworks.

44. Valuing Diversity Awareness training continues to be conducted across the state on a 'needs basis'. Triggers including commencement of new employees in schools, regions, districts and central office as well as organizational needs that arise requiring a training intervention. In Training, officers in the HR Skilling program have conducted a number of Cultural Awareness programmes through all TAFE Institutes and Regions.

45. During the 2007-08 year the Department of Education, Training and the Arts actively promoted the internationalisation of Queensland Education and Training which included conducting English courses for overseas trained teachers at Certificate IV and higher levels, and coordinated practical experience for participants to enhance their employment prospects.

46. DETA's Workforce Diversity Council and the Culturally and Linguistically Diverse Network organised the 2008 Harmony Day with an activity in Education House. The event included students from Yeronga State High School and the Australian Islamic College, as well as the President of Crescents of Brisbane. The event showcased the Brisbane Islamic community and speakers focussed on what harmony means to them. Staff from Metropolitan South Institute of TAFE also attended.

47. The department ensures that Queensland clients with languages other than English or the hearing impaired are provided free interpreter support to ensure their access to all departmental services and information.

Housing

48. The Queensland Government, through the Department of Housing, has introduced a more efficient and responsive social housing system and to support integrated provision of a broad range of housing assistance for low income Queenslanders.

49. The One Social Housing System provides all people in housing need with a better and fairer way to access a range of housing assistance. A key criterion to identify an applicant's need is whether an applicant experiences difficulty in accessing appropriate housing in the private rental market due to personal attributes. People who suffer discrimination are thus assessed as having a barrier to accessing appropriate housing.

50. Indigenous people represent 16.9 per cent of Queensland's housing need. Measures to increase the supply of appropriate housing and improve the quality of life for Indigenous people include:

(a) The Housing Community Program which assists over 4,200 Indigenous households in 34 Aboriginal and Torres Strait Islander Communities;

(b) The Housing Improvement Program under which more than \$90 million will be expended in 2008-2009 to increase and improve the amenity of long-term social housing for 16 Indigenous Council;

(c) Managing the transition of responsibility for Indigenous Community Housing Organisations from the Australian Government, resulting from the cessation of the Australian Government's Community Housing and Infrastructure Program. In addition to the transfer of responsibility, \$60 million has been received from the Australian Government to cover the cost of repairs and maintenance to properties owned by Indigenous Community Housing Organisations;

(d) Expanding the supply and improving the amenity of long term social housing accommodation through the capital investment of \$38.9 million and has assisted approximately 19,000 Indigenous households through targeted and mainstream Aboriginal and Torres Strait Islander Housing rental and community programmes;

(e) Negotiating to establish regional service delivery arrangements with the newly amalgamated Northern Peninsula Area Regional Council and the Torres Strait Island Regional Council;

(f) Working with regional and remote Indigenous councils to develop tenancy management agreements to enable the department to manage social housing stock in those communities;

(g) Delivery of the Off-Communities Investment Project - an accelerated programme to house people listed on the social housing register of need, who live on remote Indigenous communities and wish to relocate off the community to areas with improved access to housing, employment opportunities, education and health services.

51. The Residential Tenancies Authority (the Authority) has prioritised emerging communities for funding within its grant scheme and provides funding to support projects that assist refugees in Brisbane, Logan, Gold Coast and Townsville to understand their rights and responsibilities when renting in Queensland.

52. In addition, the Tenant Advice and Advocacy Service Queensland, funded in part by the Authority, has conducted workshops identifying the communication needs of African refugees in relation to housing.

Health care

53. Queensland was one of three Australian jurisdictions who in 2004 comprised the working group that developed the Australian Health Ministers' Advisory Council's Cultural Respect Framework for Aboriginal and Torres Strait Islander Health.

54. To improve in-hospital health services delivered to Aboriginal and Torres Strait Islander patients, Queensland Health established Hospital Liaison Officers positions in a number of major public hospitals. These positions have proved to be very effective in increasing Indigenous patients' awareness of their rights and responsibilities and participation in their own health care.

55. From an individual cognitive approach, Queensland Health has for a number of years run three programmes that aim to enhance the Aboriginal and Torres Strait Islander cultural capability of its staff - The Cultural Awareness Program, the Cultural Orientation On-Line and the Reconciliation Learning Circles.

56. The Aboriginal and Torres Strait Islander Cultural Awareness Program is an initiative designed to foster culturally appropriate behaviour at work through increased staff's awareness of historical and contemporary Aboriginal and Torres Strait Islander peoples', culture, history and health issues. By increasing this awareness, Queensland Health ultimately aims to promote behavioural change amongst Queensland Health staff, which in turn will help ensure the delivery

of culturally secure and sensitive health services that meet the needs of the community and contribute to better health outcomes for Aboriginal and Torres Strait Islander peoples in Queensland. Attendance to this training programme is mandatory for all Queensland Health staff.

57. The Aboriginal and Torres Strait Islander Communities Cultural Orientation Online Program is aimed at Queensland Health staff relocating to rural or remote communities. It provides an introduction to the specific local Aboriginal and Torres Strait Islander community including relevant cultural and communication protocols, key health issues and contacts.

58. The Reconciliation Learning Circles Program is an eight-module programme to enhance understanding of Aboriginal and Torres Strait Islander cultures and guide participants in the study of certain events in Australian history through Indigenous peoples' perspectives. It covers issues such as 'stolen generations', and is based on the programme originally developed by Reconciliation Australia. While this programme is delivered on a voluntary basis, Queensland Health strongly encourages all staff to participate.

Education

59. Education Queensland is committed to providing inclusive education which recognises and actively addresses injustice and disadvantage and responds to the uniqueness of individuals. The policy *CRP-PR-009: Inclusive Education* identifies processes, responsibilities and procedures to enable all students to participate fully in education, to develop skills to work and to live productively and respectfully with others of diverse backgrounds, abilities and cultures. See: <http://education.qld.gov.au/strategic/eppr/curriculum/crppr009/>.

60. With specific reference to potential discrimination against Indigenous people, Queensland state schools address this in a number of ways including educating the students and supporting the staff, *viz*:

(a) Students are educated in Aboriginal and Torres Strait Islander culture. This creates for students a better understanding of and respect for Aboriginal cultures and Torres Strait Islander cultures as it develops an enriched appreciation of Australian cultural heritage; and

(b) Teachers undertake the mandatory Crossing Cultures Training package which provides insight for teachers on diversity of Queensland's Indigenous people, education aspirations and expectations for Indigenous students and encourages active responses by individual schools. This training provides staff with cross cultural training to enable them to work more effectively with Aboriginal and Torres Strait students, families and communities.

61. Education Queensland provides a range of services and supports to assist students from culturally and linguistically diverse backgrounds to access education services and adjust to English speaking environments and Queensland school curriculum. Services for new arrivals include access to intensive education support in a school environment through dedicated English as a Second Language (ESL) programmes or by Advisory Visiting Teachers. Funding has also been provided to community organizations to deliver homework clubs for students from culturally and linguistically diverse backgrounds, particularly those students who are refugee or humanitarian entry students.

62. Education Queensland has employed four Community Engagement/Liaison officers representing the new and emerging communities of Sudan and Burundi and Myanmar/Karen.

63. The After Hours Ethnic Schooling (AHES) Program delivers classes in community languages to students from Years 1 to 12 after school hours or on weekends. In 2007 (data only available per calendar year), the programme benefited 5,899 students studying 31 languages. DETA provided grants to 32 of the 79 providers of the AHES program. These 32 providers have 333 instructors and approximately 50% of the classes are held on State school premises.

64. Over 12,000 ESL students were enrolled in Queensland state schools in 2006. In 2006-07 the Department provided \$6.7 million to support these students, including \$2 million for additional support services and programmes for refugee students.

65. Grants totalling \$86,250 were provided to the Queensland Program of Assistance to Survivors of Torture and Trauma, and Anglican Refugee and Migrant Services for homework clubs. These grants help address the needs of refugee students and develop resources including resource kits for teachers and schools with high numbers of refugee enrolments.

Culture

66. The Queensland Government Multicultural Policy: *Multicultural Queensland - making a world of difference* is established to promote equate rights, responsibilities, and opportunities for all Queenslanders, regardless of their cultural, ethnic, religious background or gender.

67. Under the policy, all Government departments are responsible to develop and implement individual multicultural action plans to promote the economic and cultural benefits of diversity, ensuring access of services by Queenslanders from diverse backgrounds, and promoting community participation, community relations and cohesion.

68. The 2008-09 policy priorities support refugees particularly those from African countries, support Pacific Islanders, and seek to improve access to services by Queenslanders from culturally diverse backgrounds. Further detail on the Queensland Government's multicultural policy, action plans and outcomes can be viewed at:
http://www.multicultural.qld.gov.au/media/maq_making_world_difference_policy.pdf
http://www.multicultural.qld.gov.au/about_MAQ/multicultural_action_plans/
http://www.multicultural.qld.gov.au/publications/reports/MC_Highlights0607.pdf.

69. The Queensland Roars Against Racism campaign is a joint three-year initiative that started in 2007 between Multicultural Affairs Queensland and the Queensland Roar Football Club to bring people from different backgrounds together and break down barriers created by ignorance, fear, and prejudice.

70. Activities under the initiative include an annual international football game with an anti-racism theme, appointment of Roars Against Racism Ambassador, promotion of anti-racism messages at specific events such as Refugee Week, Queensland Multicultural Festival. Further details of the campaign can be viewed at <http://www.multicultural.qld.gov.au/community/roar/>.

71. Multicultural Affairs Queensland provided funding of \$300,000 over three years (2005-2008) to the Centre for Multicultural Pastoral Care to document the nature and extent of racism in Queensland, and to provide support, training, and resources to combat racism. Data collection points have been set up across Queensland for the collection of case studies on incidents relevant to racism and discrimination against migrants. In addition, numerous anti-racism training targeting service providers and grassroots communities have been conducted.

72. The Muslim Community Engagement Strategy was launched in 2005 to address a range of issues affecting the Muslim community, including areas of discrimination and racism. The Government committed \$700,000 over three years (2005-2008) to support the implementation of the strategy. The following key projects have been delivered to date:

(a) International Symposium on The Challenges and Opportunities of Islam in the West (March 2008);

(b) Two Islamic Awareness Weeks conducted at local Mosques and centres (July 2006 and May 2008);

(c) Funding for two Muslim Youth Workers to undertake leadership and capacity building projects (2007/2009);

(d) Funding for three Research projects conducted in 2007-08 including: Muslim unemployment (Queensland University of Technology), Impact of media representations on Muslim community (Griffith University), and Identity and Self-perception issues among Muslim youth (Central Queensland University);

(e) Muslim Employment project jointly funded by the Department of Immigration and Citizenship and the Department of Employment and Industrial Relations (2006-08); and

(f) Together for Humanity Project targeting 2,000 students in twenty different schools (current).

Training and awareness raising for law-enforcement officers

73. The Queensland Police Service (QPS) has a multi layered approach to addressing issues relating to diversity including the Cultural Advisory Unit (policy and advice), regionally based Cross Cultural Liaison Officers, and locally based Police Liaison Officers.

74. In addressing the requirements of the State Government's Multicultural Queensland Policy, the QPS Action Plan:

(a) Facilitates, develops and maintains effective relationships between members of the QPS and Aboriginal and Torres Strait Islander and multicultural communities; and

(b) Promotes, within the QPS, an understanding of cultural diversity in contemporary Australian society, through appropriate recruitment, education, training, policy and programme development and procedures.

75. The QPS has formed and maintains external partnerships ensuring consultative mechanisms and engagement with Community and Government.

76. The QPS provides further support through the availability of the Multicultural Online Training Product (due for release prior to the end of 2008) and Multicultural Quick Reference Guides. These reference sources are used to enhance the capacity of police officers and QPS members to deal with culturally specific communities and situations.

77. The Cultural Appreciation Project addresses cross-cultural training of police personnel specifically in relation to Aboriginal and Torres Strait Islander communities and issues.

South Australia

78. The *Cultural Inclusion Framework for South Australia*, which was released in December 2006, is a guide to assist agencies in the South Australian public sector to deliver culturally inclusive programmes to Indigenous people and communities, and to eliminate discrimination and racism in the workplace and in the programmes and services offered by government.

79. The framework was trialled in the Department of Education and Children's Services (DECS) in 2007 and is now being rolled-out across the State Government. Initially, departments measure the cultural competence and appropriateness of their workforce, programmes and services. Strategies are then put in place to improve existing levels and establish arrangements for adequate consultation with Indigenous Australians. Documentation about the framework can be obtained from: http://www.premcab.sa.gov.au/dpc/publications_divisional_aard.html.

80. DECS has instituted non-discriminatory policies and procedures that are illustrative of practices across the SA Government:

Code of conduct training

81. Code of Conduct training on the *Code of Conduct for Public Sector Employees* was provided for all DECS site managers throughout 2005 and 2006. On request, DECS provides training sessions for employees in individual sites and districts. This training raises employee awareness of the responsibility to treat other people with respect and to value diversity in the work place. A train-the-trainer package has been developed for site leaders to use as part of staff induction and ongoing professional development.

Merit selection

82. DECS Merit Selection policy and procedures are required to be free of discrimination including discrimination on the basis of race. This requirement features as part of Merit Selection training available to all employees. Selection panels are required and encouraged to value diversity throughout the selection process. It is a requirement of DECS Merit Selection policy that chairpersons and at least one other panel member undertake merit selection training prior to participating on a selection panel. Where necessary, applicants may have access to interpreter services as part of the interview process.

Performance management

83. Training and support provided to line managers about performance management identifies that the needs of employees from culturally and linguistically diverse backgrounds may require that a different approach to the process be adopted.

Complaint resolution

84. DECS Complaint Resolution Policy and Procedures for Employees requires that processes are inclusive of cultural and gender perspectives and that consideration is given to the needs and issues of Aboriginal employees. Complaint managers are advised that complainants and/or respondents may have access to interpreters at interviews.

Workplace bullying

85. DECS has developed a package of resource materials for managers to raise awareness about the prevention and management of workplace bullying as part of staff induction and ongoing professional development. These materials include information about the intersection of bullying and discriminatory behaviour.

Leave management

86. DECS Leave Management guidelines for managers include information about the need to consider the approval of special leave for employees from culturally and linguistically diverse backgrounds in relation to cultural festivals and religious events.

87. DECS provides a maximum of 15 days special leave with pay in any one calendar year to enable Aboriginal employees to meet cultural responsibilities.

Teacher induction

88. The DECS teacher induction website provides a comprehensive framework for new teachers, including migrant teachers, and site leaders regarding the induction process.

Cultural awareness training

89. Intensive cultural awareness training forms part of the induction of all teachers who are appointed to positions in the Aboriginal Lands. In addition, teachers appointed to Aboriginal Lands schools are inducted into the local school community. This training is designed to minimise the risk of discriminatory behaviour through ignorance of culturally sensitive issues.

Countering racism policy and guidelines

90. DECS Countering Racism Policy and Guidelines (2007) builds on the previous Antiracism Policy (1990) and provides a renewed framework for identifying and addressing racism across all working and learning environments.

91. The document contains guidelines for complaint management and resolution, cross cultural information, a self assessment tool and resources to support improvements in six key areas for action: Governance, Curriculum and Pedagogy, Supportive Environments, Parent and Community Participation, Managing Human Resources and Monitoring and Reporting.

Tasmania

92. *Legislation:* The Anti-Discrimination Act 1998 is the primary legislative instrument that prohibits discrimination on the basis of race and ethnicity. It applies in relation to employment, education and training, provision of goods and services, accommodation, membership of clubs, administration of State laws and programmes, and industrial agreements.

93. *Training:* The Department of Police and Emergency Management (DPEM) employs a number of means to combat discrimination against ethnic and indigenous persons/groups: recruits are trained (with assistance by members of local minority communities) in ethnic and indigenous issues; ethnic and indigenous training/awareness sessions are completed in regions where a gap is identified; an Inspector is assigned as a continuous liaison with ethnic and indigenous groups, with a further contact person in each region; and constables and sergeants are tested on indigenous issues as part of their examinations for promotion.

94. *Multicultural Liaison Officer Network:* Multicultural Tasmania heads up a network of officers across State Government Agencies who represent the respective agencies' point of contact for all Multicultural Issues regarding both internal and external clients. The Network meets once a year to receive training, and to share information about new and emerging issues.

Victoria

95. The Victorian Charter of Human Rights and Responsibilities and the Equal Opportunity Act 1995 provide protection against discrimination based on race or religious belief or activities. This Act provides protection for Indigenous Victorians, migrants and persons of foreign origin.

96. In addition there is specific legislation extending protections for migrants and Victorians from culturally and linguistically diverse (CALD) backgrounds:

(a) The Multicultural Victoria Act 2004 recognises the social, cultural and economic contribution of multiculturalism to Victoria by developing legislation that enshrines the principles of multiculturalism and ensures government departments provide appropriate services for people from CALD backgrounds through specific reporting requirements;

(b) The Racial and Religious Tolerance Act 2001 (RRTA) prohibits racial and religious vilification. The Act promotes racial and religious freedom and supports the right of all people to be treated with dignity and respect. The purpose of the Act is to prevent people from inciting hatred, serious contempt, revulsion or severe ridicule of others because of their race or religion. The Act provides a community standard about how we behave towards each other in a modern multicultural society. Following consultation with community stakeholders, the Act was amended in May 2006 to clarify its operation in three areas:

(i) To confirm that the Act does not prohibit proselytising;

- (ii) To facilitate the early resolution of complaints; and
- (iii) To reduce the risk of costly legal proceedings on unmeritorious complaints under the Act.

97. The Victorian Government has also implemented a range of initiatives to strengthen inter-cultural and inter-faith dialogue and to support newly arrived migrants and refugees. Highlights include:

(a) The Victorian Government established the Community Accord in 2002, which is continuing to attract organizations as signatories. The Community Accord highlights the need for respect for all ethnic, cultural, religious and linguistic communities. It also rejects all forms of racial and religious vilification, violence, harassment and unlawful discrimination and seeks to advance the elimination of racial and religious intolerance;

(b) The Premier's Multifaith Forum 2005 which was attended by over 30 faith leaders. At the forum, a joint statement on racial and religious tolerance was released expressing in-principle support for the Racial and Religious Tolerance Act and a commitment to encourage and support local interfaith groups, particularly youth and women's networks. A subsequent forum was held in 2007;

(c) The Victorian Government's Promoting Harmony Initiative was launched in 2006/07 and allocates a total of \$4.1m over four years to promote multicultural and multifaith harmony in Victoria. Among its many achievements, the initiative has established ongoing dialogue with and between faith leaders and the Government, established a multifaith, multicultural youth network to strengthen youth participation and leadership, and created a multifaith/interfaith grants programme to fund a range of activities which promote understanding about the diversity of faiths within Victoria and build the capacity and sustainability of interfaith networks;

(d) A multifaith advisory group met for the first time in early 2008 and will continue to meet regularly to advise the government on issues of relevance to Victoria's faith communities and ongoing opportunities for interfaith dialogue;

(e) The Victorian Government created the 'All of Us' community education campaign in 2008 to celebrate the rich cultural, linguistic and religious diversity of our state. The campaign has appeared on television and in print publications and highlights people from the many different ethnicities that make up our population to build awareness, understanding and respect of culture and faith in Victoria;

(f) The Victorian Government provides a range of support to migrants and refugee communities. Specific initiatives include the Community Grants Program (grants to Victoria's CALD communities to develop and sustain local community organizations and programmes), the Refugee Nurses Program (the provision of culturally appropriate and holistic healthcare to refugees) and the Refugee Brokerage Program (the provision of joined-up services across government to refugee communities to increase their participation in the community);

(g) Each year the Victorian Government delivers 'Cultural Diversity Week', the largest celebration of multiculturalism in the State. The week aims to promote unity among Victoria's culturally and linguistically diverse communities; and encourages all of Victoria's diverse communities to retain and express their social identity and cultural inheritance. The Week is held between 17-23 March to mark the United Nations International Day for the Elimination of Racial Discrimination on 21 March;

(h) Annually, the Victorian Multicultural Commission issues an open invitation to community leaders to attend a series of state-wide community consultations facilitated by the Commission to discuss multicultural affairs in Victoria.

Western Australia

Western Australian Police

98. Western Australian Police has implemented several measures which address the issue of providing an equitable service for all members of the Western Australian community, including indigenous, emerging and established communities. These include:

(a) Corporate Structure - The WA Police have allocated significant resources to engaging with diverse communities. Centralised and local police level resources contribute to the organization's commitment to the entire community;

(b) Diversity Training Program for Recruits - WA Police have recently reviewed and improved cultural diversity training programmes. Programmes include components such as established and emerging communities, racial vilification legislation and information on government policies on equitable service delivery;

(c) Community Education Programs - The organization has been instrumental in educating the community about rights and responsibilities of both police and the community. WA Police holds forums, workshops which provide information about the role of police and specific laws such as racial vilification. Multilingual DVD's about the role of police have been distributed to the community;

(d) Recruitment - WA Police Recruitment Branch recognises the value of diversity in WA police recruit applicants and several initiatives have resulted in the recruitment of people from diverse cultural and linguistic backgrounds;

(e) Substantive Equality Framework - The Substantive Equality Framework is part of the Public sector Anti-Racism and Equality Program and has been a priority for the Government of Western Australia. This Programme was endorsed by Cabinet in December 2004. The Equal Opportunity Commission is the Government sponsor and coordinator for the programme. WA Police is a participating State Government Agency.

WA Department of Corrective Services

99. As of 9 October 2008, Western Australia had 1657 Aboriginal offenders in prison and 1807 adult Aboriginal offenders subject to community supervision. Aboriginal people made up 42 per cent of the prison population and 33 per cent of adult offenders subject to community

supervision. In addition, Aboriginal people accounted for 71 per cent (101) of offenders in juvenile custodial facilities, and 60 per cent (472) of juvenile offenders subject to community supervision.

100. The Department of Corrective Services recognises the cultural distinctiveness and diversity of Aboriginal people. To foster effective management of Aboriginal offenders, the Department provides cross cultural training as part of an induction course to all its employees. The training covers the following: past legislation, policy and practices, Aboriginal diversity, working with Aboriginal people (protocols communication, and building relationships), key Aboriginal events and Aboriginal people in the criminal justice system. The course is run as either a one or two day course, depending on the level of intensity required. Operational staff are required to attend a two day course.

101. The Department is also committed to achieving substantive equality in the provision of services to the Western Australian community by eliminating systemic racial discrimination and promoting sensitivity to the different needs of its service users. In this respect, the Department will ensure services address the needs and circumstances of service users, providing them with equitable outcomes regardless of their ethnic or cultural background.

102. The Department employs Cultural Consultants to provide cultural support to Aboriginal prisoners. Cultural Consultants are people who have both cultural knowledge and expertise relevant to the community from which the prisoner has come. They also have a community and /or regional authority as a result of their role in that community. Cultural Consultants hold functions and activities that connect prisoners back with their culture. They also assist in the collaborative case management system for managing the following prisoners:

- (a) Prisoners with sensitive, spiritual and cultural issues;
- (b) Disturbed and vulnerable prisoners; and
- (c) Prisoners at chronic risk of suicide.

103. The Department runs a range of educational and vocational programmes for prisoners to equip them for labour force participation on their return to the community. To promote Aboriginal participation, each prison education centre has an Indigenous Education Worker to provide support to Aboriginal participants. It is noted that 49 per cent of the participants in these programmes are Aboriginal prisoners and that 85 per cent of the Aboriginal participants completed the programmes. This is significant in view of the fact that employment or prospects of employment is a key factor for successful re-integration into the community, and this is recognised by the Western Australian Prisoners Review Board in its consideration for the granting of early release orders (parole and re-entry release).

104. The Department employs Aboriginal staff to work with Aboriginal offenders subject to community supervision. Aboriginal youth support officers are employed to assist young Aboriginal offenders to complete their community based orders. The assistance may take the form of help with job seeking and support to the family in setting boundaries and limitations with the offender. To enhance rehabilitation, Aboriginal offenders are referred to culturally sensitive programmes such as the Noongar Alcohol and Substance Abuse Service.

105. The Department also works in partnership with Aboriginal communities and other agencies to ensure an equitable justice outcome for Aboriginal people. The Department is a signatory to the Western Australian Aboriginal Justice Agreement (AJA), which is a planning framework that brings together Aboriginal people and government and non-government agencies to identify and address justice issues at a local, regional and state level. The AJA aims to address the specific needs of Aboriginal communities while improving the effectiveness of justice-related programmes through a coordinated approach to planning and service delivery. The three planned outcomes of the AJA are:

- (a) Safe and sustainable communities;
- (b) Reduction in the number of victims of crime; and
- (c) Reduction of over-representation of Aboriginal people in the criminal justice system.

106. As part of the AJA, the Department of Corrective Services, the Department of the Attorney General and the Geraldton Aboriginal community are working in partnership on a project to reduce Aboriginal imprisonment resulting from family and domestic violence. The project was launched in December 2005 and is one of the State Government's reducing Aboriginal imprisonment strategies. A model has been developed for Geraldton which includes recommended changes to court processes, victim and offender programmes and services, public education and community support. Work on implementing this model began in October 2006. The first services to be offered through this project began on 8 August 2007 with the launch of Barndimalgu Court. This alternative court service hears family and domestic violence charges involving Aboriginal people. The service provides offenders with the opportunity to complete programmes to address their violent behaviour before the final sentence is delivered. The court is operated by the Department of the Attorney General, with offender programmes provided by the Department of Corrective Services.

107. The Department of Corrective Services recognises the opportunity it has to improve its services and programmes to ensure they are responsive and relevant to the needs of the Aboriginal community. To enable the Department to be responsive to the needs of the Aboriginal community it is important that there is a significant increase in Aboriginal employment at all levels, especially in management and decision-making roles. The Department has an Aboriginal Justice directorate which is headed by an Assistant Commissioner. The directorate enhances services to Aboriginal people by ensuring the Department's policies and practices provide equity of access to services and a responsive approach to meeting the needs of Aboriginal people. The directorate plays a key role in informing policy and procedures from an Aboriginal perspective. It provides high-level advice on issues relating to services for Aboriginal people, as well as working closely with the locals and building Aboriginal community confidence. The Assistant Commissioner (who is Aboriginal) strengthens Aboriginal leadership and direction within the Department.

108. Improved Aboriginal representation in the workforce requires an increased focus on the attraction, recruitment and retention of Aboriginal employees by ensuring policies, procedures and operational practices are applied equitably and are culturally relevant. In this regard, the

Department has developed a comprehensive five-year Aboriginal Employment Strategy 2005-2010, in consultation with Aboriginal employees, senior management, the Public Sector Standards Commission and Aboriginal communities.

109. The Aboriginal Employment Strategy 2005-2010 has a purpose that is twofold. Firstly, to improve the employment status of Aboriginal people within the Department, secondly, to improve the quality of products and services to Aboriginal communities, individuals and families. The Strategy aims to:

- (a) Create an inclusive work environment that values the contribution and the unique range of knowledge, skills, competencies and experience that Aboriginal people bring to the workplace;
- (b) Increase the number of Aboriginal people employed by the Department;
- (c) Encourage the retention and build the capacity of Aboriginal employees, including career development; and
- (d) Improve the representation of Aboriginal people in all classification levels and occupational groups throughout the Department.

Question 2. Please indicate the ways in which the domestic legal system provides an effective remedy to persons whose rights under the Covenant have been violated.

110. There are several different ways in which Australia's legal system provides an effective remedy to persons whose rights under the ICESCR have been violated. These include anti-discrimination law remedies, human rights law remedies and administrative law remedies.

111. The Australian Human Rights and Equal Opportunity Commission is an independent statutory organization. The responsibilities of the Commission include resolving complaints of discrimination and breaches of human rights.

Australian Human Rights and Equal Opportunity Commission anti-discrimination law remedies

112. The Commission is responsible for conciliating complaints of unlawful discrimination under the Racial Discrimination Act 1975 (Cth), Sex Discrimination Act 1984 (Cth), Disability Discrimination Act 1992 (Cth) and the Age Discrimination Act 2004 (Cth). These are all based on human rights treaties that Australia is party to. This suite of anti-discrimination legislation partially implements the ICESCR. The Commission also performs various statutory functions under these laws.

113. Individuals can lodge complaints of discrimination with the Commission. The Commission aims to conciliate these matters. If a complaint under Commonwealth anti-discrimination legislation cannot be conciliated, the President of the Commission will terminate the complaint. The complainant may bring legal proceedings before the Federal Magistrates Court or the Federal Court of Australia seeking an enforceable remedy for unlawful discrimination. Remedies

that may be awarded include an apology, monetary compensation, reinstatement or promotion, provision of goods or services required or a combination of these remedies. Individual State and Territory Commissions operate in a similar manner.

Australian Human Rights and Equal Opportunity Commission human rights law remedies

114. Section 11 (1) (f) of the Human Rights and Equal Opportunity Commission Act (Cth) provides that the Commission may inquire into any act or practice that may be inconsistent with or contrary to any human right.

115. Human rights are defined in section 3 of the Act as rights and freedoms recognised in certain international instruments that are scheduled to, or declared under the Act. Whilst the ICESCR is neither scheduled to nor declared as an international instrument relating to human rights and freedoms for the purpose of section 47 of the Act, the following instruments, which partially implement the ICESCR, are scheduled to or declared under section 47 of the Act:

- (a) International Covenant on Civil and Political Rights;
- (b) Convention concerning Discrimination in respect of Employment and Occupation;
- (c) Declaration on the Rights of the Child;
- (d) Declaration on the Rights of Mentally Retarded Persons;
- (e) Declaration on the Rights of Disabled Persons;
- (f) Declaration on the Elimination of All Forms of Racial Intolerance and of Discrimination based on Religion or Belief;
- (g) Convention on the Rights of the Child.

116. The Commission can also inquire into complaints concerning breaches of human rights by the Australian Government or an Australian Government authority, or discrimination in the area of employment on numerous grounds, including political opinion, age, sexual preference or trade union activity. If such complaints cannot be resolved by conciliation, they will be the subject of a report by the Commission to the Australian Attorney-General, who in turn must table the report in Parliament.

Administrative law remedies

117. Australia has an established administrative law system to allow people to challenge a wide range of decisions made under federal laws and to obtain reasons for particular decisions that have been made. Many of the decisions that are able to be challenged in the administrative law system relate to the ICESCR. Part D, paragraphs 57-64 of Australia's common core document, incorporating Australia's fourth report under the ICESCR, which was submitted to the United Nations on 25 July 2007, provide an overview of Australia's administrative law system and remedies, including issue-specific tribunals and access to judicial review.

State/territory responses

New South Wales

118. Legislative measures that give force to the rights under the Convention in NSW law include: the Anti-discrimination Act 1977, the Industrial Relations Act 1996, the Annual Holidays Act 1941, and the Education Act 1990.

Tasmania

119. As above; the Anti-Discrimination Act 1998 provides processes and remedies to deal with discriminatory practices; for example, conciliation and Tribunal orders (S. 89).

Victoria

120. Victoria is committed to the protection of human rights - specifically, the rights contained in the ICESCR, many of which are considered and supported in the Victorian legal framework.

121. An example of domestic protection for the rights contained in the ICESCR is the Equal Opportunity Act 1995 (EOA), which was recently amended to expand the protections against discrimination, many aspects of which relate to the promotion of ICESCR rights.

122. Some examples in the EOA include:

(a) The requirement for employers to accommodate employees' parental and carer responsibilities (art. 6 - Right to Work, art. 10 - Right to Family, art. 7 - Right to just and favourable work conditions);

(b) Protection against discrimination on the basis of membership of a trade union (art. 8); and

(c) Promotion of gender equality (art. 3) by prohibiting discrimination on the grounds of sex.

123. An additional example of a domestic mechanism to protect ICESCR rights is the Victorian Charter of Human Rights and Responsibilities Act 2006 (the Charter). The rights contained within the ICESCR were carefully considered in the consultation process that was undertaken in order to develop the Charter.

124. Although the rights outlined in the Charter are largely civil and political rights, the Charter does provide protections that align with particular articles of the ICESCR including:

(a) s.8 recognition and equality before the law (art. 2 part 2, art. 3);

(b) s.16 (2) freedom of association (art. 8);

(c) s.17 protection of families and children (art. 10 parts 1 and 3); and

(d) s.19 cultural rights (art. 15 part 1a).

125. The Charter contains a requirement for the Attorney General to review the Charter after four years of operation. This review must include consideration as to whether additional human rights should be included as human rights under the Charter and specifically whether ICESCR rights should be included. This review is due to be tabled before Parliament in 2011.

126. The EOA and the Charter are only two of many legislative protections of ICESCR rights that exist in Victoria. Further protections are found in a variety of Victorian legislation relating to health, education, environmental protections and cultural rights. A range of remedies for breach of ICESCR rights is to be found in relevant legislation.

127. An example of such legislation is the Education and Training Reform Act 2006. Specifically, Part 1.2 of the Act that contains a number of principles that underlie the Victorian Government education and training system. These include:

- (a) All Victorians should have access to a high quality education;

This principle complies with the requirements of article 13.1 of the ICESCR that State Parties recognize the right of everyone to education.

- (b) The State will provide universal access to education and training through the establishment and maintenance of a Government education and training system;

- (c) Government schools will provide a secular education and will not promote any particular religious practice, denomination or sect; and are open to adherents of any philosophy, religion or faith;

- (d) Instruction in relation to the core curriculum is to be provided free of charge for all students (except overseas students) attending a Government school to the completion of year 12 if the student is under 20 years of age on 1 January in the year that the person undertakes instruction;

This principle moves beyond the scope of the requirements of article 13.2(a) of the ICESCR which provides that only primary education be compulsory. It also complies with the requirements of article 13.2(b) that secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.

- (e) Every student has the right to attend a designated neighbourhood Government school with the exception of selective Government schools that are determined by the Minister; and

- (f) A student has a guaranteed place at a TAFE institute or other public training provider to the completion of year 12 of schooling or its equivalent if the student is under 20 years of age on 1 January in the year that the person undertakes study at the TAFE institute or other public training provider. The principle is consistent with article 13.2 (b) (see above).

Western Australia

128. In Australia, each state and territory has passed legislation making it unlawful for a person to discriminate against another person on one or more grounds, including race, in a number of areas of public life. These laws are generally consistent with Commonwealth laws dealing with the same subject matter, and have corresponding application in each jurisdiction.²

129. The Equal Opportunity Act 1984 (EOA) was passed by the Western Australian Parliament in 1984, and came into force in July 1985. Like the Commonwealth Racial Discrimination Act 1975 (RDA), the EOA makes discrimination on the grounds of sex, marital status, pregnancy, race, family responsibility, family status, religious and political conviction, age, sexual orientation, and impairment, unlawful in a number of areas of life, including employment, education, the provision of goods and services, and accommodation. The term 'race' is defined under the EOA as including colour, descent, ethnic or national origin or nationality.³

130. Under the EOA, a person aggrieved by an alleged act of discrimination may make a complaint to the Commissioner for Equal Opportunity. The Commissioner's functions are supported by the Equal Opportunity Commission, a statutory agency. The Commissioner has the power under the EOA to investigate complaints of discrimination from individuals and attempt to resolve them by conciliation. If a complaint cannot be conciliated, the Commissioner must refer it to the State Administrative Tribunal (SAT) for a determination. If the SAT upholds the complaint, it can make a range of orders, including that the discriminator pay the complainant compensation up to \$40,000, or take such reasonable action so as to redress any loss or damage suffered by the complainant.

131. Another significant function carried out by the Commission is community education. The Commission's education programmes are delivered to the public sector (including law enforcement agencies), the private sector, and community organizations. The programmes cover discrimination law, the role of the Commission, grievance procedures in employment, and workplace culture.

132. Apart from investigating individual complaints, the Commission also has broad powers that permit it to carry out inquiries into systemic discrimination that may be occurring in any of the areas identified in the EOA. In December 2004, the Commission completed a two-year inquiry into alleged discrimination against Aboriginal people by the state government's housing authority, in the provision of accommodation. The inquiry report made 165 recommendations, many of which have since been implemented by the authority. The Commission continues to work with the authority and other stakeholders to ensure that the remaining recommendations are implemented.

² Except that Commonwealth instrumentalities, programs, and employees are covered exclusively by Commonwealth laws. The Commonwealth Race Discrimination Act 1975, the Sex Discrimination Act 1984, and the Disability Discrimination Act 1992 all contain provisions that allow state laws on the same subject matter to continue operation.

³ Equal Opportunity Act 1984, section 4.

133. The Commission is currently conducting an inquiry into discrimination against people of ethnically and culturally diverse backgrounds, and Aboriginal people, in the private rental accommodation market in Western Australia. The need for such an inquiry has been brought about by the reported experiences of individuals and families who have recently immigrated to Australia from Africa, the Middle East, and South East Asia, and Aboriginal people, when applying for, or when occupying, private rental accommodation. The Commission has liaised with different ethnic representative organizations, the Aboriginal community, and organizations representing property owners and agents, to ensure that as many submissions as possible are received. The Commission expects to report on its findings in early 2009.

Question 3. The International Coordinating Committee of National Institutions of Human Rights has encouraged the State party to consider removal of the provision allowing the Minister to convene the Human Rights and Equal Opportunity Commission, on the basis that it could potentially compromise the independence of the Commission. Please indicate the progress achieved by the State party in implementing this recommendation.

134. Section 44 of the Human Rights and Equal Opportunity Commission Act 1986 (the Act) provides that:

1. The Minister or the President may, at any time, convene a meeting of the Commission.
2. The President shall convene such meetings of the Commission as, in the President's opinion, are necessary for the efficient performance of its functions.
3. At a meeting of the Commission a quorum is constituted by a number of members that is not less than one-half of the number of members for the time being holding office under section 8.
4. The President shall preside at all meetings of the Commission at which the President is present.
5. If the President is not present at a meeting of the Commission, the members present are to elect one of their number to preside at the meeting.
6. Questions arising at a meeting of the Commission shall be determined by a majority of the votes of the members present and voting.
7. The person presiding at a meeting of the Commission has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.
8. The Commission may regulate the conduct of proceedings at its meetings as it thinks fit and shall cause minutes of those proceedings to be kept.

135. The Minister (the Attorney-General) does not have power to "convene" the Human Rights and Equal Opportunity Commission, although he or she is able to convene a *meeting* of the Commission. There have been no meetings of the Commission convened by the Minister to date.

136. The Explanatory Memorandum to the Act confirms that it was intended that section 44 'sets out how meetings of the Commission are to be convened and their conduct regulated'.

137. The Australian Government does not believe that the Minister's power to convene a meeting compromises the independence of the Commission. Although the Minister can convene a meeting, section 44 makes it clear that the President of the Commission, or - in the President's absence - another member of the Commission elected, shall preside at the meeting. It also provides that questions arising at the meeting shall be determined by a majority vote by the Commission members. The Minister is not a member of the Commission and is not entitled to vote at Commission meetings. The Commission is also empowered to "regulate the conduct of proceedings at its meetings as it sees fit."

138. The Commission is an independent statutory organization that reports to the Parliament through the Minister. The Minister is not involved in the day to day affairs of the Commission or the direct performance of its functions. The Commission's statutory functions are listed in section 11 of the Act. Whilst the Minister can request that the Commission undertake certain tasks, the Commission's functions as set out in that section also provide it with the ability to undertake a wide variety of work on its own initiative, including reporting to the Government on action that the Commission believes the Government needs to take on matters relating to human rights, or in order to comply with relevant international instruments. The Commission can also inquire into, and attempt to conciliate, complaints that an act or practice of the Commonwealth Government that may be inconsistent with or contrary to any human right under relevant international instruments. If the Commission is of the view that an act is inconsistent with human rights, and if settlement has not been successful or would be inappropriate, it is required to provide a report to the Minister in relation to the inquiry, which must be tabled in Parliament. This is in addition to the Commission's role in conciliating complaints of unlawful discrimination.

II. FOLLOW-UP TO THE COMMITTEE'S PREVIOUS OBSERVATIONS

Question 4. Further to the information provided in paragraph 67 of the common core document (HRI/CORE/AUS/2007), please indicate whether, in accordance with the Committee's recommendations issued in 2000, the State party has taken steps to fully incorporate the Covenant in its domestic law. Please also indicate whether the State party has taken measures to ensure that no conflict exists between Commonwealth and State law in the implementation of treaty obligations.

139. Australia's implementation of the ICESCR is described in Australia's common core document. The table contained in annex 3 of the common core document provides a detailed outline of where each of the ICESCR provisions is addressed. In summary, Australia implements economic, social and cultural rights through a variety of programmes including those relating to public health, social security, government housing, education and cultural diversity. A number of laws including the Commonwealth anti-discrimination legislation and federal industrial relations legislation are also relevant.

140. It is a well established principle of Australia's common law that statutes are to be interpreted and applied, as far as their language permits, so as to be in conformity with the established rules of international law and in a manner which accords with Australia's treaty

obligations. The courts have also accepted that the meaning of provisions in a statute implementing a convention or conventions is to be ascertained by reference to the relevant provisions of that convention or those conventions. This is particularly relevant in the case of unlawful discrimination laws which partially implement the ICESCR.

141. It is likely that during the national human rights consultation, discussion of how Australia's international obligations are implemented in domestic legislation may occur, including discussion of the ICESCR.

142. The Australian Government is actively taking measures to ensure no conflict exists between Commonwealth and State law in the implementation of treaty obligations. The Australian Constitution divides legislative power between the Commonwealth Government and State governments. Most of the heads of power enumerated in the Constitution are concurrent; that is, both the Commonwealth Government and the State governments may legislate on these subjects. If both the Commonwealth Government and a State government legislate on the same subject and the two pieces of legislation are inconsistent, then the State legislation will be invalid to the extent of the inconsistency and the Commonwealth legislation will prevail. Under the Constitution, where the Commonwealth legislation legitimately covers the whole field on any subject matter, State legislation on the same subject matter will be invalid.

143. Commonwealth anti-discrimination laws implement many of Australia's treaty obligations and help ensure that rights are exercised without discrimination in accordance with the article 2, paragraph 2 of ICESCR. There are differences in both substantive law and procedure between State and Territory and Commonwealth anti-discrimination laws.

144. The Standing Committee of Attorneys-General (SCAG) is a ministerial council comprising the Australian Attorney-General and the Minister for Home Affairs, the State and Territory Attorneys-General and the New Zealand Attorney-General. This Committee has established an Anti-Discrimination Law Harmonisation Working Group, which will identify options for harmonisation, taking into account related initiatives in each jurisdiction. The Working Group is currently working in consultation with all jurisdictions' human rights or equal opportunity commissions to develop options for harmonising anti-discrimination laws and complaint handling systems for consideration by the Attorneys-General at future SCAG meetings. In the longer term, SCAG will consider options for reform that examine opportunities for (and obstacles to) substantive reforms to anti-discrimination laws, procedures, and institutional and/or co-operative arrangements.

State/territory responses

145. States have also taken action to incorporate the ICESCR into their legal systems. For example, in 2002, the Western Australian Parliament amended the Equal Opportunity Commission Act so as to make discrimination on the ground of a person's sexual orientation unlawful in the areas of employment, education, accommodation, the provision of goods and services, membership of clubs, disposal of land, and access to places and vehicles.

146. The EOA defines 'sexual orientation' as meaning heterosexuality, homosexuality, lesbianism, or bisexuality, whether actual or imputed to a person.

147. The inclusion of this ground in the EOA furthers incorporates the Covenant into Western Australian law, specifically, articles 2.2, 6, 7, and 13.

Question 5. Please provide information on the measures undertaken to follow the High Court’s position concerning “legitimate expectations” arising from the ratification of the Covenant.

148. The concept of ‘legitimate expectations’ based on the ratification of a treaty arose in the 1995 case of *Minister for Immigration v Ah Hin Teoh (Teoh)*.⁴ The majority of High Court judges in *Teoh* held that, in the absence of an indication to the contrary from the Government, the act of Australia entering into a treaty may give rise to a legitimate expectation that decision-makers will act in accordance with that treaty. The High Court made it clear that a legitimate expectation did not provide for a substantive right under which the provisions of an unincorporated treaty could be given effect under domestic law. Nor did it compel decision makers to act in a particular way. The concept of legitimate expectation gave rise to a procedural right to challenge administrative decisions. The concept implies that if a decision-maker proposes to make a decision that is inconsistent with the provisions of a relevant treaty, persons affected by that decision should be given written notice and an adequate opportunity to make submissions against the proposed course of action, in accordance with the rules of procedural fairness. While the facts of the *Teoh* case related specifically to article 3 of the Convention on the Rights of the Child, the concept of legitimate expectation has been interpreted to apply to treaties generally.

149. The ruling in *Teoh* was called into question by the High Court’s subsequent judgment in the 2003 case of *Re Minister for Immigration and Multicultural Affairs; Ex parte Lam*.⁵ A majority of High Court judges in the latter case critiqued *Teoh* and expressed strong doubts about the principle that unincorporated treaties give rise to legitimate expectations in administrative law, suggesting that support for the concept of legitimate expectation appears to have declined among members of the current High Court. Whilst the concept of legitimate expectation as enunciated in *Teoh* has not been expressly overruled and remains part of Australian law, it is open to being re-examined by a future High Court bench.

150. As a result of the decision in *Teoh*, and the concern that decision-makers would by implication need to be aware of the large number of treaties to which Australia is a party, the Government decided to issue policy directions that guide decision-makers to consider the international obligations most relevant to the exercise of the relevant power.⁶

⁴ *Minister for Immigration and Ethnic Affairs v Teoh* (1995) 183 CLR 273.

⁵ *Re Minister for Immigration and Multicultural Affairs; Ex parte Lam* (2003) 214 CLR 1.

⁶ For example, Direction 21 issued under s499 of the Migration Act, which guides the exercise of the power in s501 of the Act.

151. The principles of procedural fairness are guarded by existing mechanisms in Australia's administrative law framework.⁷ This framework includes: mechanisms to seek review of administrative decisions by specialized merits review tribunals, the Administrative Appeals Tribunal and the Courts; mechanisms to make complaints to bodies such as the Ombudsman and Privacy Commissioner regarding the exercise of government power; and the scrutiny of bills and regulations by parliamentary committees, to ensure that decision-making powers accorded in new bills and regulations do not unduly impinge upon the rights and interests of individuals.

152. The Parliamentary Joint Standing Committee on Treaties (JSCOT) was established in 1996 as part of a package of reforms to improve the openness and transparency of the treaty making process in Australia. The JSCOT reporting process has played a significant role in ensuring that Parliament, Government departments and the public are better informed about treaties and the potential impact of Australia's treaty obligations on administrative decision-making.

153. The Australian Government believes that the protection of human rights and responsibilities is a question of national importance for all Australians. For this reason, the Government proposes to undertake an Australia-wide consultation to determine how best to recognise and protect human rights and responsibilities in Australia. How international human rights obligations are recognised in statutory interpretation and administrative decision-making is likely to be considered during the national human rights consultation.

Question 6. Further to the information provided in paragraph 419-422 of the common core document, please indicate whether minimum wages are sufficient, with a view to providing all workers and their families with an adequate standard of living in accordance with article 7, paragraph (a) (ii) of the Covenant. Please also provide detailed and updated information, including disaggregated data, on home workers.

154. In Australia, the Australian Fair Pay Commission (AFPC) is responsible for the setting and adjusting of minimum wage rates, including those for juniors, apprentices and trainees and employees with a disability. In setting minimum wages, the AFPC is required to promote the economic prosperity of Australians, while taking into account a number of factors including the need to provide a safety net for the low paid and the capacity for the low paid to obtain and remain in employment.

155. The AFPC's 2008 decision took the Federal Minimum Wage (FMW) to \$543.78 per week, or \$14.38 per hour at the first pay period on or after 1 October 2008.

156. The Australian Government stated in its 2008 submission to the AFPC Minimum Wage Review that the AFPC should grant an increase in minimum wages so that those who are reliant on minimum wages share in the strong growth in prosperity in Australia.

⁷ Commonwealth of Australia, *Common Core Document forming part of the reports of States Parties incorporating the Fifth Report under the International Covenant on Civil and Political Rights and the Fourth Report under the International Covenant on Economic, Social and Cultural Rights*, June 2006, Part 2, Section D, paras. 51 and 57-64.

157. However, the Government recognises that minimum wages are only one aspect of the safety net and stated that the tax/transfer system has a significant role to play in alleviating income inequality and supporting the living standards of low paid workers.

158. In its 2008 submission, the Government outlined recent taxation initiatives in the 2007-08 Budget and examined how these changes would assist low income earners and support the living standards of the low paid. These include:

(a) From 1 July 2008, the Government increased the 30 per cent income tax threshold from \$30,001 to \$34,001 and up to a level of \$37,001 for 2010-11;

(b) The low income tax offset (LITO) increased from \$750 to \$1,200. The LITO will continue to be withdrawn from the income level of \$30,000. This means that those eligible for the full LITO do not pay tax until their annual income exceeds \$14,000, an increase from the previous level of \$11,000;

(c) In 2007-08 the LITO is now only available when a person lodges their tax return, which means that it cannot reduce the amount of tax withheld on their wages or salary through the year. From 1 July 2008, half of the LITO (up to \$600 in 2008-09 for those eligible for the full LITO) has been available through the year as reduced income tax withholding. This will mean that low paid workers now receive around \$11.50 per week in additional after-tax income;

(d) The LITO increased from \$750 in 2007-08 to \$1,500 in 2010-11. As a result of these changes taxpayers eligible for the full LITO, that is taxpayers with an income up to \$30,000, do not pay income tax until their annual income exceeds \$14,000 for 2008-09, \$15,000 for 2009-10 and \$16,000 for 2010-11.

159. These measures will allow low income earners, including part-time workers, to keep more of their earnings and maintain their disposable incomes, provide further incentives for people to enter the workforce or work more hours and mitigate income inequality.

160. Compared with their income tax liability for 2007-08 and excluding the Medicare levy, a person on \$20,000 will have an income tax reduction of around 56 per cent and a person on \$50,000 will have an income tax reduction of around 18 per cent by 2010-11.

161. The Government also raised the level of assistance to families with child care costs by increasing the Child Care Tax Rebate from 30 per cent to 50 per cent and increasing the threshold from \$4,354 to \$7,500 per child per year. It will further assist recipients by paying the rebate quarterly rather than annually, providing more timely assistance. The first payments are due after the 1st quarter in 2008-09.

162. In relation to home workers, the Government does not have any reliable data on the number of workers in this group.

Question 7. Please provide statistical information, disaggregated by geographical, economic and social sector, on the extent of poverty and extreme poverty in the State party, especially among indigenous people, migrants, asylum-seekers and other disadvantaged and marginalised groups.

163. In Australia there is no official or generally agreed measure of poverty. There are significant, well known limitations with the measures used internationally, both generally and in the Australian context.

III. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (arts. 1-5)

A. Article 2 (para. 1). Realization of economic, social and cultural rights by all appropriate means

Question 8. Please indicate whether the national consultation regarding a federal Charter of Rights will consider the incorporation of economic, social and cultural rights in Australian law.

164. The Government proposes to undertake an Australia-wide consultation to determine how best to recognise and protect human rights and responsibilities in Australia. The aim of the consultation is to bring together a full range of views across the spectrum of Australian society about how we should protect human rights. Importantly, the consultation will not presuppose any outcome and will not be limited to the discussion of any particular category of human rights.

165. A legislative charter of rights and responsibilities is one option for protecting human rights, but any new approach will flow from the views expressed by the Australian people. The Government has indicated that, while it would not support inclusion of a bill of rights in the Constitution, the consultation will consider a range of options for recognising and protecting human rights in Australia.

166. The incorporation of economic, social and cultural rights in Australia is likely to be an issue that is raised during the consultation process.

B. Article 2 (para. 1). International assistance and cooperation

Question 9. Please explain why the State party's commitment to providing foreign aid, despite the welcome increase from 0.3 per cent to 0.5 per cent of gross national income, falls short of the 0.7 per cent pledged by States in the Millennium Development Goals.

167. Australia is firmly committed to helping alleviate poverty and assist developing countries achieve the Millennium Development Goals.

168. The Australian Government is committed to continue increasing official development assistance (ODA) beyond 2010 so that it reaches the funding target of 0.5 per cent of gross national income (GNI) by 2015, even following the global financial crisis.

169. In order to progress to this target, the Government is taking concrete measures to increase ODA. Australia has increased ODA to 0.32 per cent of GNI in 2008-09 and expects to further increase ODA to 0.35 per cent of GNI in 2009-10, 0.37 per cent in 2010-11 and 0.38 per cent in 2011-12.

170. Australia is committed to increasing both the quality and the quantity of the Australian international development assistance programme, and retains the target ODA level of 0.7 per cent of GNI as an aspirational goal.

C. Article 3. Equal rights of men and women

Question 10. Please indicate what concrete steps, including legislative, budgetary and administrative steps, the Party intends to take to address the disadvantaged position of women, in particular that of indigenous women, compared to men in relation to income, access to health, education, housing and political representation. Please indicate what steps are planned to remedy the unequal conditions of employment faced by women?

171. The Australian Government is committed to addressing the disadvantaged position of women and believes there are three main challenges that need to be addressed. These are: to improve economic outcomes for women, to reduce violence against women and to ensure women's equal place in society.

172. On 4 December 2008, Australia acceded to the Optional Protocol to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Under the Optional Protocol, women in Australia will be able to make a complaint to the UN Committee on the Elimination of Discrimination Against Women about alleged violation of Australia's obligations under CEDAW after domestic legal options have been exhausted.

Unequal conditions of employment faced by women

173. The Government is currently delivering its election commitment to implement new workplace relations laws to create a fair and flexible workplace relations system that achieves the right balance between employers and employees.

174. All employees, including the most vulnerable women, will benefit from: a strong safety net of statutory minima and awards; greater security of employment; improved leave entitlements; and greater flexibility for parents in the workforce.

175. The National Employment Standards include a new right for parents to request flexible working arrangements, such as part-time work or flexible working hours, as well as improved unpaid parental leave arrangements.

176. The Australian Industrial Relations Commission (AIRC) is currently undertaking an award modernisation process. In undertaking this process the AIRC is required to promote the principle of equal remuneration for work of equal value in creating new modern awards.

177. The Government is also committed to strengthening the provisions of the Sex Discrimination Act 1984. The Sex Discrimination Act provides legislative protection against discrimination on the ground of sex, marital status, pregnancy or potential pregnancy and family responsibilities in areas of public life including employment, education, accommodation and housing. An inquiry into the effectiveness of the Sex Discrimination Act has been conducted by a Parliamentary Committee and a final report was handed down on 12 December 2008. The inquiry has heard submissions on a number of issues, such as addressing discrimination on the ground of family responsibilities, sexual harassment and preventing discrimination through educative means. The Government will consider the findings of the report in 2009.

Income

178. The Government is committed to addressing pay equity concerns for women. In response to a request by the Government, a Parliamentary Committee is conducting an inquiry into pay equity and issues associated with women's labour force participation. The Committee is not expected to report before June 2009.

179. The Government also recognises that assisting parents in the labour force is of crucial importance for both working families and employers. The Government is currently considering the establishment of a national scheme of paid parental leave. The Productivity Commission is undertaking a public inquiry on this important issue and released a draft report outlining a proposed paid parental leave model in September 2008. The release of the Productivity Commission's final report is expected in February 2009.

180. The Age Pension and Carer Payment are predominantly paid to women - women constitute 57.4 per cent of all age pensioners and 67.3 per cent of Carer Payment recipients. Seventy two per cent of single age pensioners are women.⁸

181. The Government is conducting an investigation into measures to strengthen the financial security of seniors, carers and people with disability, including a review of the Age Pension, Carer Payment and Disability Support Pension, as part of its inquiry into Australia's Future Tax System. The Pension Review will be completed by the end of February 2009 and will inform the broader inquiry into Australia's Future Tax System, which will conclude by the end of 2009.

Access to health

182. Australian women fare much better than men on many indicators of health and wellbeing and their subjective assessments of health and life expectancy continue to improve. However, further improvements can be made on several health indicators and particularly for older women, Indigenous women, women from low socio-economic backgrounds and for women who live in rural and regional areas of Australia.

⁸ Supercross data provided by Centrelink, as at 12 September 2008.

183. The Government is also committed to providing high quality, effective health services for women living in rural and remote areas. Funding is provided to assist small rural communities to identify local primary and allied health priorities, which may include priorities aimed at improving women's health, and to develop and support services relating to these priorities.

184. Closing the gap in health outcomes between Indigenous and non-Indigenous Australians is a priority for the Government. On 20 March 2008, the Government and Indigenous representatives signed a Statement of Intent to work together to achieve equality in health status and life expectancy between Indigenous and non-Indigenous Australians by the year 2030.

185. Specific Government initiatives to address Indigenous women's health needs include the following:

(a) The Healthy Life Program, which will improve the quality and availability of child and maternal health services, and improve the prevention, early detection and management of chronic disease for Indigenous people;

(b) The New Directions Mother and Babies Program, to improve indigenous women's access to antenatal and postnatal care; improve Indigenous children's health and early development and early development, and facilitate healthy entry into school for Indigenous children;

(c) The Australian Nurse-Family Partnership Program which will provide a sustained home visiting service to women pregnant with an Indigenous child and their families until the child is two years old;

(d) A smoking and pregnancy initiative to encourage doctors, midwives and Indigenous health workers to give advice to pregnant women, particularly Indigenous women, about the damage caused by smoking;

(e) COAG leaders signed a National Partnership (NP) agreement that comprises \$564 million of joint funding over six years to address the needs of Indigenous mothers and children in the early years.

186. Government initiatives to address the health needs of Indigenous and non-Indigenous women include the following:

(a) The Medical Specialist Outreach Assistance Program addresses the comparatively higher burden of disease of people in rural and remote communities and includes specialist travel to rural and remote locations to provide fertility, sexual health and general gynaecology and obstetric services;

(b) The Rural Women's General Practice (GP) Service is funded by the Government to improve access to primary health-care services for women in rural and remote Australia;

(c) The Rural Health Specialist Obstetricians Locum Scheme received a funding increase of \$5.9 million over three years to provide women in rural areas with more access to quality obstetric care;

(d) In 2007-08, the Government introduced incentive payments to encourage general health practices to act as a referral point for women experiencing domestic violence.

187. In response to the ageing population, Australia is committed to improving older people's health. At age 65, Australia's females can now expect to live to 86.6 years-old compared to 83.5 for men.⁹ Over 90 per cent of the gain in increased life expectancy between 1988 and 2003 for females aged 65 or over is estimated to be time spent with a disability, including 58 per cent of the gain being spent with profound or severe limitation. This compares with 67% and 27% respectively for men aged 65 or over.¹⁰

188. Australian State and Territory governments also provide a range of health programmes and services for migrant and refugee women.

189. The Government funds the Australian Longitudinal Study on Women's Health, a landmark 20-year study which started in 1995 to identify trends and provide valuable policy information relating to women's health.

Education

190. COAG has adopted a number of strategic platforms, through integrated policy and implementation, in order to comprehensively address the current state of disadvantage, and contribute to the health and well-being of women and their children:

- (a) Early Childhood;
- (b) Schooling;
- (c) Health;
- (d) Economic participation;
- (e) Healthy homes;
- (f) Safe communities; and
- (g) Leadership and governance.

⁹ ABS *Deaths Australia 2007* (cat. no. 3302.0).

¹⁰ Australian Institute of Health and Welfare, *Life expectancy and disability in Australia 1988 to 2003*.

191. COAG also established the Working Group on Indigenous Reform (WGIR), to progress this agenda. The WGIR brought forward a reform proposal on Indigenous Early Childhood Development, which specifically addressed better access to antenatal care, teenage reproductive and sexual health services, child and maternal health services and integrated child and family services which focus on quality early learning, child care and parent and family support.

Housing

192. WGIR has highlighted Healthy Homes as a building block in its framework to address *Closing the Gap in Indigenous Life Outcomes*. Improvements to the current poor standard of housing and associated infrastructure, and the high levels of overcrowding and homelessness of Indigenous Australians, are critical to meeting the COAG targets.

193. The *Overcrowding Indigenous Disadvantage* report highlights the importance of housing as a determinant of Indigenous health and well-being, that overcrowding increases the chances of contracting diseases, and is a “personal stressor” contributing to the long-term health conditions. The report also recognises that reducing overcrowding can improve educational performance, and help reduce substance abuse and family violence. Indigenous women are disproportionately affected by family violence compared with Australian women generally. For example, Indigenous women are 35 times more likely to be hospitalized due to family violence-related assaults than other Australian females and 13 times more likely to seek assistance with supported accommodation to escape family violence than non-Indigenous women.¹¹

194. The Australian Remote Indigenous Accommodation program was announced in the 2007 Budget as a significant Indigenous housing and infrastructure reform strategy aimed at addressing overcrowding, homelessness and the housing backlog in remote Indigenous communities.

195. Specific measures targeting Indigenous women include the Indigenous Mothers Accommodation Fund (IMAF) established in 2008 to provide safe and supported accommodation for women who have to travel from their communities to give birth.

196. The National Rental Affordability Scheme aims to address rental property shortages and rapidly rising rents by increasing the supply of affordable rental dwellings; reducing the rental costs of low and moderate income families and individuals; and encouraging large scale investment and innovative delivery of affordable housing. In the early years of the Scheme’s implementation, proposals that include rental dwellings for tenants with special needs (including people with mental and physical disabilities, Indigenous Australians and older Australians are among the priority areas of interest.

197. Indigenous and non-Indigenous women should benefit particularly from the Scheme because of their over-representation in the groups targeted as a priority and in the target group of eligible tenants, due to their lower household income.

¹¹ Australian Institute of Health and Welfare study *Family Violence among Aboriginal and Torres Strait Islander Peoples, 2006*.

Women's leadership

198. The Government is committed to increasing women's participation in decision-making and leadership roles in Australia.

199. Currently 31.8 per cent of Federal parliamentarians are women, including the deputy Prime Minister and six senior ministries. This has increased marginally since 2004. As of the last election in November 2007, women make up 25.7 per cent of the House of Representatives in the Parliament of Australia. This is an increase from 24.7 per cent in 2004. Women make up 35.5 per cent of the Senate. The Governor General of Australia is also a woman.¹²

200. In addition, 36.1 percent of senior executive positions within the Australian Public Service are women, however the percentage of women in Leadership decreases in the higher level executive positions.¹³

201. The Australian Government's Indigenous Leadership program is an innovative and flexible programme designed to build the leadership capacities of Indigenous men and women. It offers participants a journey of self discovery and development that will enhance their leadership abilities for themselves, their families, their communities and their nation.

202. The aim of the programme is to develop a 'critical mass' of Indigenous leaders who can lead by example in their community. Throughout the programme, participants are supported to plan and take action on issues of significance to them and their community.

203. The Indigenous Women's program (IWP) is a grants programme aimed at enhancing Indigenous women's leadership, representation, safety, wellbeing and economic status. The IWP grant is administered through local Indigenous Coordination Centres in urban, rural and remote Australia.

204. The Government is disappointed that the number of women on boards and in executive management positions has declined since 2006. The *Equal Opportunity for Women in the Workplace Agency 2008 Australian Census of Women in Leadership* shows the number of women executive managers in the ASX200 has declined to 10.7 per cent from 12 per cent in 2006 and 11.4 per cent in 2004. The number of companies with no women executive managers has risen to 45.5 per cent from 39.5 per cent in 2006.

205. The Government has led the states and territories in the implementation of the National Strategy for the Increased Participation of Women on Boards. At the November 2007 Women's Advisory Meeting, officials agreed to progress the National Strategy for the Increased Participation of Women on Boards - The Way Forward for 2009-2011.

¹² Number of Women in Parliament, Parliamentary Library, www.aph.gov.au/library/handbook/historical/women_number.htm [updated 08/05/2008].

¹³ *State of the Service Report 2006-07*, Australian Public Service Statistical Bulletin (Section 5), Australian Public Service Commission, Canberra.

206. As part of the National Strategy for the Increased Participation of Women on Boards, the Office for Women has developed AppointWomen, a database of women who have registered their interest and qualifications to sit on Government boards and decision-making bodies. AppointWomen is used by federal government departments to strengthen their transparency and merit based selection processes for Government boards.

207. In June 2008, a total of \$2.13 million was allocated to 22 national women's non-government organizations through Women's Leadership and Development programme grants to deliver 25 projects that will benefit a diverse range of women and strengthen the capacity of the women's non-government sector to provide input to the development of public policy.

State/territory responses

Australian Capital Territory

208. ACT Health has a range of services targeted at disadvantaged and vulnerable women for example: the IMPACT which is service for pregnant women who are clients of Mental Health ACT and/or are receiving opioid replacement therapy Young women's support service, Well women's Clinic, and Antenatal clinics (including Young Mums program, and Substance Abuse program). ACT Health funds a number of health services *specific* to indigenous people through WNAHS for both men and women.

209. These services include:

- (a) Dental Health Program;
- (b) Hearing Health Program;
- (c) Mental Health Liaison Service;
- (d) Dual Diagnosis Program;
- (e) Youth Detox Support Service;
- (f) Administrative Support;
- (g) Business Support;
- (h) Correctional Outreach Services;
- (i) The Opiate Program.

210. Specific to indigenous women is The Aboriginal Midwifery Access Program/Maternal and Child Health Service.

211. ACT Health also provides a range of other programmes specifically targeted at women to ensure access, such as the Multicultural Well Women's Education and Clinical Intervention Program, the Female Genital Mutilation education programme etc.

New South Wales

212. Since 2003, the NSW Government has developed a range of initiatives that protect women from discrimination and advance the full participation of women in all aspects of community life. In 2004, the NSW Government established the Office for Women, now the Office for Women's Policy, to provide a central source of policy advice on issues affecting women, and enhance the Government's capacity to mainstream gender issues and analysis across portfolios. The NSW Office for Women's Policy, based in the Department of Premier and Cabinet, reports directly to the Minister for Women and is a significant agent in improving the economic and social well-being of women in NSW.

Queensland

213. Please note that a number of the initiatives, programmes and projects described in response to this issue may be equally relevant to Issue 1.

214. The *Women in the Smart State Directions Statement 2003-2008*, (the Directions Statement) maps out the Queensland Government's five-year strategic plan for Queensland women and outlines significant investment in a range of strategies and initiatives that contribute to improving the quality of life for Queensland women. The Directions Statement aims to create opportunities for women and meet challenges in areas where women still experience greatest under-representation, inequity and need under five key goals: improving women's health and wellbeing; promoting opportunities to help women balance their work, family and lifestyle; improving women's capacity to achieve economic security; enhancing women's safety; and increasing women's participation in leadership, decision-making and community building.

215. The Anti-Discrimination Commission, Queensland (ADCQ) continues to be responsible for administering the Queensland Anti Discrimination Act 1991 (the ADA). In 2003, an Indigenous unit was established in ADCQ to ensure Indigenous issues are prominent in the ADCQ's human rights agenda.

216. The ACDQ deliver a range of education and research initiatives including:

(a) Information sessions about the Anti-Discrimination Act to a number of community groups working with people from culturally and linguistically diverse backgrounds via a partnership with the Brisbane City Council that funds and supports bi-lingual community support workers;

(b) A website containing information in 28 languages. During the past six years, an effort has been made to ensure web material is available to newly emerging communities in Queensland;

(c) ADCQ, in partnership with the Commission for Children and Young People and Child Guardian, the Crime and Misconduct Commission, the Health Rights Commission and the Queensland Ombudsman, worked on a range of strategies to make access to complaint processes more accessible for people from culturally and linguistically diverse backgrounds, including newly arrived migrant communities.

Indigenous women

217. The National Aboriginal and Torres Strait Islander Women's Gathering (NATSIWG) is an annual event for Aboriginal and Torres Strait Islander women that has occurred since 2002. The NATSIWG is a key mechanism for Aboriginal and Torres Strait Islander women to raise issues with, and make recommendations to, Ministers at the Ministerial Conference on the Status of Women (MINCO) where Women's Ministers from the Commonwealth, States, Territories and New Zealand Governments get together to discuss issues of importance for women. Since 2002, the Queensland Government has sponsored four Indigenous women annually from Queensland to attend the NATSIWG. Their participation also allows ideas and actions from the gatherings to be taken back to their respective communities for implementation. Additionally, the Queensland Government has given its financial support to the ongoing funding of the NATSIWG secretariat.

218. The Queensland Department of Child Safety recognises the particular disadvantage experienced by Aboriginal and Torres Strait Islander women. The department provides services to, and works intensively with, Aboriginal and Torres Strait Islander women, children, families and communities to support them and to maintain children within their families and communities wherever it is safe and in a child's best interests to do so.

219. Legal Aid Queensland's 'Integrated Indigenous Strategy' provides assistance to Indigenous people to access justice and focuses on the needs on Indigenous women and their families living in remote and regional communities.

220. The Aboriginal and Torres Strait Islander Justice Agreement (the Justice Agreement) aims to reduce the rate of Aboriginal and Torres Strait Islander people coming into contact with the criminal justice system to at least the rate of non-Indigenous Queenslanders. The goal of the Justice Agreement is to achieve a 50 per cent reduction in the rate of incarceration of Aboriginal and Torres Strait Islanders. The Justice Agreement was evaluated in 2005/06 and the Queensland Government has recommitted to its goals.

Health

221. The Queensland Government delivers a range of women's health services including programmes in emotional and mental health, reproductive health, violence and healthy ageing; sexual assault support and prevention programmes; free breast screening; family planning services; maternity services; lactation support; child health services; and refugee health services. The Queensland Government has also initiated a number of initiatives to improve access to health information and services for rural women, including Indigenous women living in remote communities.

Education

222. Education Queensland schools offer equity in access and opportunities in education for all students, regardless of gender. The over-arching Inclusive Education policy is supplemented by guidelines for specific issues such as gender equity in school sport and support for pregnant and parenting students.

223. Given the increasing representation of women in the workforce, Queensland continues to consider the challenges in ensuring that women have ongoing engagement with education, training and skilling to enable their equitable participation in Queensland society. Since 2003, specific training and employment initiatives have focused on strategies that provide informed choice and a wider range of options for women and girls. Relevant state-wide projects include:

- (a) Women's Community Leadership Skills Development Project;
- (b) Festival of Women's Ideas Into Action;
- (c) Young Women's Access to Training and Employment;
- (d) Young Indigenous Women's Focus Workshops (to inform Young Women's Training and Employment Issues);
- (e) Gender Awareness Training Program;
- (f) Elevate: Women and Technology Training Project.

224. These initiatives also focus on the participation and engagement of women with disability, those from Aboriginal and Torres Strait Islander background and those from culturally and linguistically diverse groups.

225. The Queensland Skills Plan released in 2006 provided new industry and community engagement models to address the diverse vocational education, training and skilling needs of women. Industry and community engagement models have been implemented and ensured strategies that integrate the access and participation of women in the skills reform agenda. These include skills alliances, skills formation strategies, centres for excellence, regional and industry forums and cross-government skilling partnerships.

226. Humanitarian refugee and immigrant women are provided equal access and opportunities to English language training through flexible timetabling, intensity and locations; bi-lingual tutoring; Home Tutor and Distance Learning programs; and provision of childcare with information translated into 17 languages and oral information provided. Transition Programs target specific groups including breastfeeding women.

227. The Australian South Sea Islander Community Foundation, established by the Queensland Government, provides scholarships for Australian South Sea Islander students to assist with their undergraduate university studies. By 2008, half of the 24 Australian South Sea Islanders who were successful in gaining \$15,000 scholarships were women.

Housing

228. Women are over represented amongst public housing tenants, and head 90 per cent of all single parent public housing households. The *One Social Housing System* reforms being implemented by the Department of Housing will create a more efficient and responsive social housing system and will support integrated provision of a broad range of housing assistance for

women in Queensland. The *One Social Housing System* provides services ranging from high subsidy assistance such as the direct provision of housing to other products such as private housing assistance.

229. The Homeless Person's Information Queensland (HPIQ) is a call centre to assist Queenslanders with information and referral to homelessness and related support services. HPIQ callers include single women, women with children and women as part of a household or extended family, including women experiencing homelessness as a result of family and domestic violence. The service commenced in 2006 and became state-wide in July 2007. It is available 24 hours to women anywhere in Queensland.

Employment

230. In 2006, the Queensland Government amended the *Industrial Relations Act 1999* to provide employees with a "right to request" his/her employer to: extend unpaid parental leave from 52 to 104 weeks, and permit an employee to return from parental leave on a part-time basis until the child reaches school age. The amendments require that an employer cannot unreasonably refuse such a request. In addition, the amendments provided that an employee may use up to 10 days of personal leave, including accrued leave, in a year for the purposes of caring for members of the employee's immediate family or household who are sick or require care and support.

231. Queensland Government Departments undertake a range of activities and initiatives to improve the participation of women in the workforce including supporting professional development opportunities for women through participation in mentoring programmes such as the Queensland Women in the Public Service Mentoring and Coaching Program and the promotion of more flexible work practices, policy to support female employees who may be pregnant or breastfeeding in the workplace.

232. The Smart Women - Smart State strategy is a whole-of-government framework to deliver improved outcomes for women in education, training and employment, particularly in the currently under-represented areas of science, engineering and technology. A Taskforce was established in 2005 to oversee the implementation of the strategy, and is currently focused on delivering the *Smart State Strategy: Science, Engineering and Technology Action Plan (2006-2009)*, a 12 point Action Plan which aims to enhance girls' and women's participation in science, engineering and technology. Additionally, the OFW coordinates the annual *Smart Women - Smart State Awards* program to recognise achievements by women in science, engineering and technology. The inaugural awards were held in 2003.

233. The OFW is delivering the Queensland Government's *Women in Hard Hats* strategy which aims to promote careers and encourage greater participation by women in non-traditional employment in the mining and construction industries, as well as in emerging science and technology fields. The initiative is to be delivered over a four-year period from 2006 with support from a number of key industry groups.

234. The Enterprising Women in Rural Industries programme supports and promotes women producers developing food, fibre and tourism businesses on-farm. Strategies include regular e-newsletters to 1100 producers, professional development and regional networking activities,

trade shows and promotional events. The Department of Primary Industries and Fisheries also sponsors and coordinates the prestigious *Rural Industries Research and Development Corporation's (RIRDC) Rural Women's Award*, comprising a \$10,000 bursary awarded annually.

235. Under the Muslim Labour Force Participation project, gender-specific programmes such as the Muslim Childcare Work Placement Program have been developed to target identified vocational pathways. This programme commenced in 2007 and now has 12 participants.

236. A number of community organizations have also been provided grant funding recently, including:

(a) African Women's Information Expo held in May 2008 which offered seminars and workshops for African women in the Logan area to develop their skills and provide opportunities in event management, mentoring and networking;

(b) Developing Leadership and Management Expertise project developed by Al-Nisa Youth Group which aims to build leadership capacity among young Muslim women;

(c) Your Rights at Work: A Seminar for Women which targeted Queensland women of culturally and linguistically diverse backgrounds to improve their working conditions, ensure understanding of their rights, and reduce workplace exploitation.

Leadership and political representation

237. Queensland women have been appointed to a range of key leadership positions in fields such as the judiciary, the public service and politics. Queensland's Premier is a woman, and in the Queensland Parliament 31 of 89 Legislative Assembly members are women (34.8 per cent), five of 18 Cabinet positions are held by women and five of 11 Parliamentary Secretaries are women. Women represent 35.4 per cent of local government councillors and 11% of mayors. As at May 2008, eight of the Supreme Court's 25 judges are female (32 per cent), seven of the 39 District Court judges are female (17.9 per cent) and the present Chief Judge of the District Court is a woman. Twenty-seven of Queensland's 85 magistrates are women.

238. The Women in Local Government (WILG) Strategy Group aims to increase women's representation in local government, at the elected (councillor) and officer (council worker) levels by identifying obstacles preventing women from participating in local government and developing strategies to overcome these obstacles. Among other activities being undertaken, the WILG Strategy Group will award the inaugural WILG Professional Development Bursary (\$4,500) in 2008-2009 to two Queensland women working in local government in an elected or an administrative/managerial role.

South Australia

239. There are 3 SA Strategic Plan targets that directly relate to the issue of female representation in government decision-making.

240. T5.1 Increase the number of women on all State Government boards and committees to 50 per cent on average by 2008, and maintain thereafter by ensuring that 50 per cent of women are appointed, on average, each quarter.

241. The percentage of women on government boards and committees rose from 33.62 per cent in January 2004 (the baseline) to 43.14 per cent in February 2008. Currently, the key Indigenous-specific government boards (SA Aboriginal Heritage Committee, SA Aboriginal Advisory Council and Aboriginal Lands Trust) have 48 per cent female representation.

242. T5.2 Chairs of boards and committees: Increase the number of women chairing State Government boards and committees to 50 per cent by 2010.

243. In the four years since the baseline (the beginning of 2004), the percentage of women chairing government boards and committees rose from 23.83 per cent to 31.71 per cent. The SA Aboriginal Advisory Council - the State's top Indigenous advisory group to government - is chaired by an Indigenous woman.

244. T5.3 Members of Parliament: Increase the number of women in Parliament to 50 per cent by 2014. Female representation in the SA Parliament increased from 21.7 per cent in 1996 to 33.3 per cent in 2008.

245. While State Government Indigenous boards and committees are ensuring the active participation of Indigenous women in government decision-making, many Indigenous community groups, particularly community councils, have had less female involvement. One way the SA Government is seeking to work with these community bodies to improve female representation has been through the continuing community governance training programme managed by the Department of the Premier and Cabinet. The training programme has to date involved 52 women (of the 96 participants) and seeks to promote them as viable options for community leadership positions. Of these participants, 9 Indigenous women (of 14 total participants) successfully completed a Certificate IV in Business (Governance).

246. The South Australian Women's Health Policy (March 2005) states the Government's commitment that health services will work to ensure that all women, irrespective of where they live, their race, culture, sexuality or personal circumstances, have universal access to basic health care that is timely, of high quality, safe and responsive. These services must cater for the full range of physical, mental, social and emotional well being issues that confront women. Access also means that these services will be effectively coordinated, so that women consumers receive holistic, integrated care. The aim is that every woman will experience a health system that is responsive to her life, background and circumstances.

247. The Policy also recognised the imperative to improve the health of Aboriginal and Torres Strait Islander women who have had unacceptable levels of poor health for too long, and placed a specific emphasis on increasing the full participation and leadership of Aboriginal and Torres Strait Islander women in the health system and in Aboriginal communities.

248. There are two specific initiatives identified for Aboriginal and Torres Strait Island women:

(a) The Our Culture, Our Babies, Our Future Framework and Context documents, which was developed in 2005 to provide the background and principles of culturally responsive maternal and infant care for midwives and others caring for Aboriginal women and their families. The principles underpin the Aboriginal Maternal Infant Care training programme for health workers and the cultural update for midwives and are tailored to meet the specific needs of each regional and remote community;

(b) The Aboriginal Workforce Reform Strategy and Action Plan, which aims to increase the participation of Aboriginal and Torres Strait Islander women across the SA Department of Health.

Tasmania

249. The Tasmanian Government supports many ongoing policies, programmes and projects across a range of areas that recognise and promote the important role women have in contributing to, and engaging in, all aspects of society. These include:

Whole of Government policy

250. Women Tasmania is located in the Community Development Division of the Department of Premier and Cabinet. Women Tasmania's role is to ensure that Government policies, programmes and projects are responsive to the needs of women and represent their views. Women Tasmania has a policy focus on family and community safety, leadership and participation, and women in work and education. It works in partnership with the community sector, Government agencies and business to achieve practical improvements in the lives of Tasmanian women. Women Tasmania also has resource centres in Hobart, Launceston and Burnie and maintains a free and confidential information and referral service for women who need help.

Independent review

251. The Tasmanian Anti-Discrimination Act 1988 (the Act) prohibits discrimination on the basis of a range of attributes, including breastfeeding, family responsibilities, gender and marital status.

252. The Act also prohibits conduct which offends, insults, humiliates, intimidates or ridicules another person on the basis of gender, marital status, relationship status, pregnancy, breastfeeding, parental status or family responsibilities. Sexual harassment is also prohibited under the Act.

253. The Act applies to employment, education and training, the provision of facilities, goods and services, accommodation, membership and activities at clubs, administration of any law of the State or State program and awards, and enterprise and industrial agreements.

254. The Tasmanian Office of the Anti Discrimination Commissioner grants exemptions that permit preferential conduct that promotes educational and employment opportunities for women in a range of industries.

Education, training and employment

255. The Tasmanian Government administers the ‘Tasmanian Women’s Register’, a secure on-line database of women interested in participating on Government boards and committees. The Register assists in identifying suitable women who are skilled, experienced and interested in appointment.

256. Distance Education Tasmania provides distance learning for young mothers to ensure that pregnancy and parenthood do not unnecessarily curtail their education. Teachers negotiate individualised learning programmes for these students and work closely with them and their parents or carers. Some Tasmanian schools have implemented specific ‘Young Mothers Programs,’ to enable young mothers to continue their education. There are also flexible learning programmes in place in colleges to allow greater opportunity for young mothers with time constraints to participate in education programmes.

257. The Tasmanian Government has introduced the ‘Girls in Real life’ mentoring programme designed to raise female students’ aspirations and awareness of life and career choices. This is complemented by the ‘Just Us Girls’ mentoring program designed to enhance confidence, broaden horizons and encourage leadership in girls.

258. The Tasmanian Government, through Skills Tasmania, actively seeks to provide programmes which increase women’s participation in vocational education and training. Significant increases have been achieved in recent years. Skills Tasmania purchases courses and services targeting women, especially disadvantaged women, Aboriginal women, women with a disability and those facing multiple barriers to participation to education and training.

Family and community safety

259. ‘Safe at Home’ is a Tasmanian Government initiative developed in response to family violence in Tasmania. Supported by the Family Violence Act 2004, it is a pro-arrest, pro-prosecution response to family violence that integrates and extends the range of services to support victims, usually women and children. The strategy includes a range of services working together to manage the risk, safety and therapeutic needs of people affected by family violence. Key features of the programme include crisis response, counselling, legal assistance, court support and intervention programmes for offenders.

Protecting sex industry workers

260. The Sex Industry Offences Act 2005 (SIO Act) commenced in Tasmania in January 2006. The SIO Act makes it an offence to force a person to become or remain a sex worker by intimidation, assault, supply or administration of drugs, false representations or threatening to cause the person to be deported. The SIO Act also includes separate offences of intimidating, assaulting and threatening sex workers to make it clear that certain crimes, when perpetrated against sex workers, may result in a higher penalty than would otherwise be the case. This recognises the vulnerable and marginalised position of sex workers in society.

Health

261. The 'Tasmanian Women's Health Program' provides a range of initiatives designed to reduce inequities in health outcomes and ensure access to services for groups at risk of poor health including Aboriginal women, women with disabilities, low income women, women living in rural and isolated areas, and others who are marginalised in some way.

Rural women

262. The Department of Primary Industries and Water coordinates the Women in Rural Industries Program. The programme focuses on working with rural women and industry and aims to: promote networks with, and develop partnerships between, rural women and industry; promote rural women as part of industry decision making; and provide input to Government on relevant issues affecting rural communities.

Victoria

263. The status of Victorian women is improving in many areas, including their workforce participation and self reported health status. There are a number of Victorian Government policies and programmes aimed at further reducing disadvantage amongst women:

(a) The third whole-of-Victorian-Government women's policy, Women's Policy Framework 2008-11, builds on Leading with Victoria's Women 2004-2007 and 'Valuing Victoria's Women: Forward Plan for Women 2000-2003' and continues the Victorian Government's commitment to pursuing the equal participation of women in four key areas: representation and equity; education, work and economic independence; health, wellbeing and community strengthening; and justice and safety;

(b) The Victorian Government supports women to take positions on government boards and committees through the Victorian Women's Register. The Register contains details of women interested in appointment to government boards and committees, and serves to link them with opportunities that arise;

(c) Returning to Earning is a current four-year \$13.2 million programme to assist parents who have been out of the paid workforce for at least two years while caring for children to upgrade their skills to prepare for re-entry into the workforce. Women are the major beneficiaries of this programme. Returning to Earning builds on the success of the Parents Returning to Work program delivered from 2002-07;

(d) The Koori Women Mean Business Program has provided leadership training to increase the skills and confidence of Indigenous Victorian women to participate in public life;

(e) The Victorian Government continues to increase the participation and achievement of women in vocational education and training and further education. It aims to improve employment opportunities for women in non-traditional and emerging industries through partnerships with TAFE and industry and Vocational and Educational Training in schools programme;

(f) The Women's Health and Wellbeing Strategy 2006-10 builds on the Women's Health and Wellbeing Strategy 2002-06. The Strategy continues the Government's commitment to improving Victorian women's health and wellbeing, with particular attention to the links between gender, diversity and disadvantage. The plan focuses on three priority action areas: mental health and wellbeing, sexual and reproductive health and wellbeing, and social connectedness;

(g) The Victorian Government has improved the system of response to sexual assault and the level of support provided to victims, currently investing \$34.2 million to the Sexual Assault Reform Package, across the areas of justice, police and corrections;

(h) The Victorian Government has committed over \$70 million since 2005 to reform and integrate the system response to family violence, linking the police and legal response with increased services and support to victims;

(i) The Indigenous Family Violence 10 Year Plan Strong Culture, Strong Peoples, Strong Families - towards a safer future for Indigenous families and communities was developed in partnership with the Indigenous community and aims to improve the safety of Indigenous women and children.

Western Australia

Department of Consumer and Employment Protection

Pay equity initiatives

264. In 2006, the Pay Equity Unit was established within the Labour Relations Division of the Department of Consumer and Employment Protection. The Pay Equity Unit is the only specialist unit addressing gender pay issues in any Australian jurisdiction. In the last 2 years, the Pay Equity Unit has been leading the way in implementing initiatives to address pay equity and encourage greater opportunities for workforce participation and career development for women.

265. The key aims of the Pay Equity Unit are to:

- (a) Raise public awareness of pay equity through education and training;
- (b) Work with stakeholders in relevant areas to identify and benchmark gender pay gaps;
- (c) Assist government and private sector agencies to implement pay equity audits.

266. The Pay Equity Unit has been working in four broad areas:

- (a) Education and awareness raising campaign;
- (b) Developing resources for organizations to undertake pay equity audits;

(c) Providing reports to public sector agencies about their gender pay gaps; and

(d) Consulting with stakeholders about gender neutral tools and the adoption of an Australian Standard related to this tool.

267. In addition, the Unit engages in research on pay equity strategies and consults with pay equity experts locally, nationally and internationally. It holds seminars and initiates research projects on pay equity issues and writes submissions to relevant inquiries. These strategies are outlined below.

268. The Pay Equity Unit coordinated a Submission on behalf of the then Western Australian Government to the Productivity Commission inquiry into paid maternity, paternity and parental leave models for Australia. Paid parental leave is important from a pay equity perspective as it supports ongoing workforce attachment for women, which can result in higher long term earnings and increased retirement savings for working women.

269. The key components of the Submission were:

(a) A national 14 weeks paid parental leave scheme (in accordance with the ILO Maternity Leave Convention) that is available to either parent;

(b) Funded by the federal Government and paid at the level of the federal minimum wage including 9 per cent superannuation;

(c) Employer to pay employee at the level of federal minimum wage including 9 per cent superannuation, and then seek reimbursement for same amount from the federal Government; and

(d) Employees who have completed 12 months service are eligible for paid parental leave.

270. The Pay Equity Unit has also been promoting quality part time work as a key strategy to assist gender equity. This has focused on education about the need and importance and benefit of part time work, dispelling myths about part time work and particularly part time work at senior levels.

271. Quality part time employment enables individuals to combine economic participation and family care and is comparable to full-time employment in terms of conditions, opportunities and benefits, apart from reduced hours. Genuine quality part time employment creates the potential for men and women to share paid work and care.

Work life balance initiatives

272. The positive impact of flexible work options on the earnings and careers of women is well known. Women experience many barriers to combining flexible work options and career progression.

273. The Department of Consumer and Employment Protection is currently undertaking a long-term research project to identify and address barriers to the implementation of flexible work

options. The Public Sector Pilot Implementation Project is currently underway in three volunteer state public sector agencies. The pilot study began in February this year and consists of three phases and is expected to take 12 to 18 months to complete.

274. In phase one of the study, quantitative and qualitative research was conducted by the Consortium for Diversity at Work at the University of Western Australia. The research included identifying the extent to which existing flexible work provisions were being used; gathering suggestions for new work life balance initiatives and recommending strategies to overcome barriers.

275. Phase two of the project focuses on the implementation of the recommendations from phase one. A project officer from the Department of Consumer and Employment Protection is working with the three agencies to assist in implementing the recommendations and is designing a training programme for managers on specific work life balance issues in each agency.

276. The third and final phase of the project will involve re-evaluation of the participant agencies by researchers at the University of Western Australia. The final outcome of the pilot project will be a series of recommendations for implementing work life balance strategies across the Western Australian public sector.

Other strategies

277. Other strategies to promote flexible work options currently being undertaken by the Department of Consumer and Employment Protection are the promotion of flexible arrangements for employees who have elder or disabled care responsibilities, development of best practice case studies of organizations successfully implementing flexible work and development of resource material to assist small business implement changes in work arrangements to meet employee needs.

Department of Culture and the Arts (DCA)

278. The Culture and the Arts Portfolio is currently implementing the Equal Employment Opportunity and Diversity Management Plan 2007-2009, which establishes Portfolio priorities and performance objectives for equity and diversity, including the development and implementation of employment programmes and practices which recognize and include strategies for women to achieve workforce equal employment opportunity.

Department of Racing Gaming and Liquor

279. The Department has implemented numerous strategies to prevent discrimination in the recruitment and retention of employees. These strategies include:

(a) An Equal Employment Opportunity Policy and Management Plan for 2008-2009, which is available on the intranet. The objective of this policy is

“To eliminate and ensure the absence of discrimination in employment on the grounds of sex, marital status, pregnancy, family responsibility or family status, race, religious or political conviction, impairment, age, sexual orientation or gender history and to promote equal opportunity for all persons;”

- (b) Aim to conduct awareness raising sessions on sexual and racial harassment on a regular basis and include this information in the induction process for new employees;
- (c) Equal employment opportunity training for all staff;
- (d) Cross-cultural awareness training for all staff;
- (e) Disability awareness training for all staff;
- (f) The appointment of Grievance Officers to conciliate complaints relating to discrimination, harassment etc.;
- (g) The Code of Conduct is being amended to make reference to expectations on staff in relation to harassment and other unacceptable behaviours;
- (h) All policies and accountability governance framework is being amended to promote diversity and other responsibilities;
- (i) Increased access to part-time and flexible working arrangements to increase opportunities for women and other diversity groups to achieve work-life balance;
- (j) The simplification of selection criteria in all selection processes, to ensure they are written in plain English and recognise the value of diverse experience and perspectives;
- (k) Increased effort to recruit indigenous employees, including trainees and cadet ship programme participants;
- (l) The aim to coordinate corporate celebrations of significant diversity related events like NAIDOC week and international women's day.

280. The Department of Racing Gaming and Liquor have also implemented a number of additional strategies to address the disadvantages faced by women. These include policy initiatives to:

- (a) Encourage and sponsor talented women to undertake executive development and professional in-servicing;
- (b) Target women for acting promotional positions, secondments and career-enhancing projects, possibly across divisions and even in other agencies;
- (c) Balance gender participation in executive development;
- (d) Ensure that management development training includes a gender balance of participants;
- (e) Target women in recruitment; and
- (f) Ensure that description of duties, values and attributes (and conditions of employment) adequately cater to women.

Department of the Attorney-General

Family violence courts

281. By the end of 2008, Family Violence Courts will be operating in Perth's six metropolitan Magistrates Courts. Geraldton has an Aboriginal Family Violence Court which provides an alternative service to hear family and domestic violence charges involving Aboriginal people.

282. Family Violence Courts deal only with family and domestic violence related offending. A holistic approach is taken to the protection of victims of family violence, who are most often women. The focus of the Courts is on the safety of victims, and addressing the violent behaviour of offenders.

283. The Family Violence Courts utilise an interagency family and domestic violence case management model, involving staff from the Family Violence Service, WA Police, Community Justice Service, the Department for Child Protection and other relevant Government and community services. The Courts all provide programmes created specifically for Aboriginal people.

284. Each court has a Family Violence Support Service. The support service provides referrals which allow victims access to counselling, health services and crisis care facilities. Victims may also obtain help in regards to violence restraining order applications and hearings and the preparation of victim impact statements. The Family Violence Support Service also provides information on safety planning, victim support, court process and obtaining access to police, legal service and medical care.

Legal aid assistance

285. The Legal Aid Commission of Western Australia has a Domestic Violence Legal Unit which assists women who are experiencing domestic violence. They assist women with Restraining Order matters and provide counselling on legal rights and options. They also provide information and referrals for emergency and safe housing, Centrelink support and benefits, counselling services and medical matters. Interpreters can be arranged, free of charge, for women needing the service who are non English speaking.

**IV. ISSUES RELATING TO SPECIFIC PROVISIONS
OF THE COVENANT (arts. 6-15)**

A. Article 6. Right to work

Question 11. Please provide detailed and updated information, including disaggregated data, on the rate of unemployment and underemployment in the State party.

Unemployment rates by age, State and Territory

286. The unemployment rate in Australia stood at 4.4 per cent in November 2008. While this is the same as the unemployment rate recorded in November 2007, it is worth noting that the unemployment rate fell as low as 3.9 per cent in February 2008. The unemployment rate for females and males stood at 4.8 per cent and 4.1 per cent respectively in November 2008.

287. Significantly, all States and Territories, except New South Wales and South Australia, recorded an unemployment rate of less than 5 per cent November 2008: New South Wales (5.2 per cent); Victoria (4.4 per cent); Queensland (3.8 per cent); South Australia (5.3 per cent); Western Australia (3.0 per cent); Tasmania (4.5 per cent); the Australian Capital Territory (2.5 per cent); and the Northern Territory (3.8 per cent).

288. Disaggregating by age cohort, the unemployment rate stood at 9.1 per cent for 15-24 year olds in November 2008. In October 2008 (latest available data for these age cohorts)¹⁴ the unemployment rate stood at 3.3 per cent for 25-54 year olds and 2.4 per cent for persons aged 55 and over.

Underemployment

289. The number of underemployed persons has fallen by 26 300 (or 4.8 per cent) over the year to September 2007 (latest available data), to stand at 518 300¹⁵ reflecting the strong labour market conditions prevailing over the period. The number of men who were underemployed fell by 29 300 over the year, to 207 000 in September 2007, while the number of women who were underemployed increased by 3000 to 311 300 over the period. The underemployment rate (or proportion of the labour force that is underemployed) has fallen from 5.0 per cent in September 2006 to 4.7 per cent in September 2007, while the unemployment rate has fallen from 4.7 per cent to 4.2 per cent over the same period.

State/territory responses

Tasmania

290. *Long-term*: The recent strength in the Tasmanian economy has enabled a substantial number of the long-term unemployed to gain employment. The share of total unemployment accounted for by long-term unemployment has remained above 30% since 1982 and has been consistently above that of Australia over the past 20 years. The average duration of periods of long-term unemployment has also been above that of Australia, with both generally increasing since the early 1990s. When classified according to shared socio-demographic characteristics, analysis indicates that the Tasmanian long-term unemployed can be grouped into six distinct clusters. They are younger non-indigenous males with a low skill occupational background, older skilled rural males with a high rate of disability, low-skilled urban males very long-term unemployed, skilled females, younger low-skilled females, and young indigenous males.

¹⁴ All data are in *seasonally adjusted* terms, with the exception of the two Territories (where data are in *trend* terms) and the 25-54 and 55 and over age cohorts (where data are in *original* terms). Source: ABS *Labour Force, Australia*, November 2008 (Cat. no. 6202.0) and ABS *Labour Force, Australia, Detailed - Electronic Delivery*, October 2008 (Cat. no. 6291.0.55.001).

¹⁵ Source: ABS *Underemployed Workers, Australia*, September 2007 (Cat. no. 6265.0). Data are in *original* terms.

291. *Short-term:* Tasmania is currently showing strong employment relative to Australia. In September 2008, Tasmania has a 3.9 per cent unemployment rate (on a trend basis) relative to an Australian average of 4.2 per cent. Labour force participation is also strong, with September's figures showing the highest rate of employment since the current labour force survey began in 1978.

Western Australia

Department of Consumer and Employment Protection

292. In September 2008 WA's unemployment rate was 3.0 per cent, a marginal increase from the record low 2.7 per cent recorded in August. WA has maintained the lowest unemployment rate of all Australian states for the past fourteen months. In September 2008 the female unemployment rate fell to 2.9 per cent, the lowest ever recorded in WA.¹⁶

293. The Australian Bureau of Statistics publishes disaggregated underemployment estimates annually. Underemployed workers are employed people who would prefer, and are available for, more hours of work than they currently have. Women are more likely than men to be underemployed. The most recent data for WA reveals that in September 2007 there were 34,000 underemployed workers consisting of 21,100 women and 12,900 men.¹⁷

294. DOCEP LR recognises that women are more likely to experience underemployment than men. The response to point 10 outlines some of the strategies DOCEP LR is using to assist women to increase their participation in the labour market.

Question 12. Some provision of the Workplace Relations Act 1996, such as the exclusion of employers with 100 employees or less from the remedies for unfair dismissal and the removal of recourse to appeal against terminations which purport to be based on operational reasons, appear to be inconsistent with international labour standards. Please indicate what measures will be taken to redress the situation.

Unfair dismissal

295. Under the current federal workplace relations system, employees in businesses with fewer than 100 workers can be dismissed without the right to challenge the dismissal as being harsh, unjust or unfair. For other employees, where the dismissal is for "genuine operational reasons", there is no remedy available.

296. The Australian Government has committed to creating a new unfair dismissal system that is fair and balanced. Under the Government's proposed workplace relations system, the 100 employee exemption will be abolished and instead, there will be a simple system of

¹⁶ ABS Labour Force September Publication cat no. 6202.0.

¹⁷ ABS Underemployed Workers September 2007 cat no. 6265.0.

qualifying periods (six months in businesses with 15 or more employees and 12 months in businesses with less than 15 employees) which will give unfair dismissal protections to many more employees.

297. Under the proposed new unfair dismissal system, where a claim of unfair dismissal is made, a simple, streamlined process will apply for both small and larger businesses.

298. Unfair dismissal claims will normally be lodged with a new industrial umpire, Fair Work Australia, within seven days. Fair Work Australia will take a flexible approach in gathering information. It will be able to make initial inquiries and discuss the issues with employers and employees, including in informal conferences at mutually agreed locations, with a view to achieving a mediated resolution.

299. Where there are contested facts, Fair Work Australia will be able to decide the outcome in either a conference or by holding a formal hearing.

300. The proposed new system will be non-legalistic. Legal representation will be allowed, but only with Fair Work Australia's permission.

301. Decisions will be able to be made without the need for a full public hearing. Public hearings will only occur where, after considering the views of the parties, Fair Work Australia decides this would be the most effective and efficient way to resolve the matter.

302. Under the proposed new system, if an employee is made redundant, and the redundancy is genuine, the dismissal will not be unfair.

303. Within the overall unfair dismissal system, special arrangements will apply for small businesses with fewer than 15 employees. These arrangements recognise the special circumstances of small business owners. They do not have human resource management departments, they cannot afford to lose time and they cannot readily redeploy employees into other positions or workplaces.

304. Compared with larger businesses, small business owners will benefit from:

(a) A doubling of the qualifying period from six to 12 months, during which time employees cannot take a claim for unfair dismissal; and

(b) A Small Business Fair Dismissal Code which, if followed by the small business employer, will ensure a dismissal is not unfair.

305. Legislation to support these changes was introduced into Parliament on 25 November 2008. The Government intends to implement all elements of this legislation, except for the National Employment Standards and modern awards, on 1 July 2009.

Question 13. Further to the information provided in paragraph 442 of the common core document, please provide detailed and updated information on the measures adopted to strengthen employment security, especially for vulnerable workers, including protection against unfair dismissals.

Unlawful termination

306. In addition to the changes to unfair dismissal protections outlined above, the proposed reforms to the workplace relations system include some changes to the way unlawful termination protections are structured. These protections will be combined in a new streamlined form with freedom of association and some other related protections, and will provide more comprehensive protections for workers in some situations than is currently the case.

307. For example, it is currently unlawful for an employer to dismiss an employee for certain reasons such as because of their sex, race or family responsibilities. Under the proposed new laws, a range of additional adverse actions, falling short of dismissal, will be unlawful - for example, placing an employee in a position that pays less, or refusing to employ them, for one of the prohibited reasons.

B. Article 7. Right to just and favourable conditions of work

Question 14. Please comment on the impact of the introduction of Work Choices on Australian Workplace Agreements, which previously ensured working conditions through a system of awards and collective bargaining, in respect of employee working conditions, particularly the Agreements lodged in the six months following the introduction of Work Choices.

308. The Workplace Relations Amendment (WorkChoices) Act 2005 (Work Choices Act) placed Australian Workplace Agreements (AWAs) at the forefront of agreement making. If an AWA applied to an employee it applied to the exclusion of all other agreements. Furthermore, where an AWA explicitly excluded entitlements that applied to an employee through the relevant award these entitlements would no longer apply. An AWA could not exclude an employee's entitlement under the Australian Fair Pay and Conditions Standard.

309. The result of this change was the increased use of AWAs to remove an employee's entitlements under the relevant award. Notably, a sample of 1748 AWAs from the 117 463 AWAs lodged prior to the introduction of the Fairness Test, showed that 89 per cent removed at least one protected award condition. The most commonly removed protected award conditions were: shift work loadings; annual leave loading; penalty rates; and, incentive based payments and bonuses.

310. However, since the passage of the Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008 (Transition Act), employers have no longer been able to offer AWAs in any form. Employers that used AWAs and currently have at least one employee on an

AWA are able to offer Individual Transitional Employment Agreements (ITEA) with a nominal expiry date of no later than 31 December 2009. ITEAs are only intended as a transitional instrument for employers until they move into the new bargaining framework outlined by the government in Forward with Fairness.

311. The proposed new bargaining framework is based on collective bargaining. The framework will contain only a single stream of enterprise agreements. The new institutional body, Fair Work Australia (FWA), will not intervene in agreement making, except to approve enterprise agreements, if it is not necessary. However, FWA will have the capacity to intervene in bargaining to resolve disputes and protect employees' right to bargain collectively and be represented by a union through a variety of methods.

312. Furthermore, agreement making under the proposed framework will also operate under the protections found in the National Employment Standard (NES) and modern awards. Through the Better Off Overall Test (BOOT), which is to be applied by FWA, every employee must be better off overall against these reference instruments.

Question 15. Please provide details of policies and programmes aimed at ensuring the rights of home workers to receive compensation at least at the level of the official minimum wage, to benefit from adequate social security and to enjoy just and favourable working conditions.

A new workplace relations system

313. Under the Australian Government's proposed new workplace relations system, all employees, including outworkers, such as those in the Textile, Clothing and Footwear (TCF) industry will have the benefit of clear, comprehensive and enforceable minimum protections that cannot be removed. Both employees and employers will have the benefit of a safety-net that is simple and flexible.

314. The safety net will include the ten legislated NES in addition to the creation of modern awards by the AIRC. Modern awards will be industry or occupation based and tailored to the needs of the particular industry or occupation.

315. Modern awards may include terms relating to pay and conditions for outworkers. Provision is made for both employee outworkers or contract outworkers in the TCF industry. This recognises the need for protective clauses to be included in modern awards for outworkers.

Homeworkers' Code of Practice

316. The Australian Government has provided funding for a Homeworkers' Code of Practice Program, an important step in ensuring that Australian homeworkers are not at risk of exploitation.

C. Article 8. Trade union rights

Question 16. According to paragraph 451 of the common core document, the Human Rights and Equal Opportunity Commission (HREOC) is empowered to inquire, on its own motion or upon receipt of a complaint, into acts or practices which may constitute discrimination in employment on the basis of trade union activities. Please provide detailed and updated information on: (a) the complaints received; (b) the cases between employers and employees pending trial; and (c) the implementation of the decisions of HREOC.

317. From 1 January 2000 to 31 December 2007 the Commission received 135 complaints pertaining to discrimination in employment on the basis of trade union activities.

318. Complaints which allege a breach of human rights or discrimination under the Human Rights and Equal Opportunity Commission Act 1986 (Cth) ('HREOC Act') cannot be taken to court for determination. Where complaints under this Act have not been declined or resolved, and the President is of the view that the subject matter of the complaint constitutes discrimination or a breach of human rights, the President will report the findings to the Attorney-General for tabling in federal Parliament. Information on reports to the Attorney-General is available on the Commission's website at: http://humanrights.gov.au/legal/HREOCA_reports/index.html.

319. As outlined in paragraph 451 of the common core document, the Commission has reported to Parliament twice on discrimination on this ground in 1997 and 2000 (both reports are available at: http://humanrights.gov.au/human_rights/issues/report_9.html and http://humanrights.gov.au/human_rights/trade_union/index.html respectively).

320. The Commission has since made a third report to Parliament regarding discrimination on this ground in 2007 (which is available at: http://humanrights.gov.au/legal/HREOCA_reports/hrc_report_37.html).

321. As outlined in these reports, the Commission made the following recommendations in each case:

(a) *King v. Australia Post* (1997) - the Human Rights Commissioner found that the complainant had suffered discrimination in employment within the terms of the Act because her trade union activity and recommended the respondent pay the complainant \$2,000 as compensation for injury suffered as a result of the discrimination;

The respondent accepted the recommendation for the payment of compensation to the complainant. The Human Rights Commissioner welcomed this response and congratulated the respondent on it.

(b) *Edwards, Farrell, Moate v. O'Brien Metal Products Pty Ltd* (2000) -

The Commission found that the complainants, Mr Ernest Edwards, Mr Ian Farrell and Mr Wayne Moate, suffered discrimination in employment within the terms of the Act. The Commission recommended that the respondent pay each complainant the sum of \$5,000.00 by way of general compensation for the loss and injury he suffered as a result of the discrimination;

The solicitors for the respondent advised the Commission that a liquidator had been appointed to the respondent, and the liquidators had instructed the lawyers not to do any further work on this matter.

(c) *Dr Julie Copeman v. Derbarl Yerrigan Health Service* (2007) - The President found that DYHS's termination of Dr Copeman's employment on the basis of her trade union activity constitutes discrimination in employment for the purposes of s 31(b) of the HREOC Act.

The President recommended that DYHS:

- (i) Write a personal apology to Dr Copeman; and
- (ii) Pay Dr Copeman the sum of \$7,000.00 by way of compensation for emotional hurt; and \$69,185.00 in compensation for her loss of salary and superannuation. DHYS informed the Commission that they did not intend to take any action in response to those recommendations.

322. The Commission notes has no power to make enforceable determinations in respect of complaints under the HREOC Act. The HREOC Act only provides for the Commission to report to the Attorney-General on its findings and recommendations in such complaints. Under s 35(2) (e) of the HREOC Act, the Commission is also required to state in its report to the Attorney-General whether the respondent has taken, or is taking, any action as a result of my findings and recommendations. The Attorney-General is then required to table the report in Parliament.

Question 17. Please elaborate on the implementation of workers' rights, including collective bargaining rights, under the December 2005 Workplace Relations Amendment Bill. Please also: (a) provide information on the incidences of strikes; and (b) elaborate on the compatibility with the Covenant of the restrictions on the right to strike under domestic law.

323. The dispute rate for the September 2008 quarter was 3.9 working days lost per thousand employees (WDL/000E). The annual rate during 2007 was 5.4 WDL/000E.

324. The Australian Government's substantive workplace relations reforms are currently being developed. It is intended that the new legislation will be considered by the Parliament prior to the end of 2008.

325. The Government believes that, because ongoing industrial action is not in the interests of employees, employers, families, communities or the economy, industrial action should be restricted to limited circumstances and used only after parties have genuinely tried to reach agreement.

326. In our previous submission, we noted that in particular circumstances, 'protected industrial action' is available, free from the threat of civil action for loss or damage associated with the action, or from being terminated (in the case of employees).

327. Under the new reforms, protected action will continue to be available during bargaining for a collective agreement. The range of matters over which parties can bargain will be expanded. Protected industrial action will also be available to advance claims in support of these matters. Employees will continue to be able to cease work over legitimate occupational health and safety concerns in the workplace without being considered to be taking 'industrial action'.

328. Protected action must first be approved by a majority of affected employees through a secret ballot process. A secret ballot is a means of determining the views of employees about taking protected industrial action, and is not intended to frustrate or delay the action. The ballot process will be simplified and will be supervised by Fair Work Australia, the new independent industrial umpire.

329. Industrial action will not be protected where it is taken before the nominal expiry date of an enterprise agreement or where the parties taking industrial action are not bargaining in good faith. In addition, industrial action taken in support of pattern bargaining, will not be protected. Fair Work Australia will be able to issue orders to prevent or stop any unprotected industrial action.

D. Article 9. Right to social security

Question 18. Please provide information on the extent to which social security payment are adequate to ensure a dignified life and an adequate standard of living.

330. The social security system in Australia redistributes Government revenue collected in the tax system to individuals and families to increase the wellbeing of the Australian population. It is part of a broader social protection system that includes direct expenditure on services and infrastructure (such as health, education and community services), the superannuation system-which complements the Age Pension in Australia's retirement income system-and payments, services and investment to promote the efficient and effective functioning of the Australian economy which underpins individual and national wellbeing.

331. To work effectively, in addition to supporting a basic acceptable standard of living, taking into account prevailing community standards, the income support system has to:

(a) Give greater assistance to those with additional costs either through transfer payments or services;

- (b) Target payments to those not able to fully support themselves;
- (c) Promote participation and self-provision through services, incentives to work and save, and obligations; and
- (d) Be sustainable.

332. A recent Australian Government Senate Standing Committee on Community Affairs' inquiry into cost of living pressures on older Australians found that people on lower incomes are disproportionately affected by rises in the cost of essential items like food, housing, petrol and medical care. It also found the maximum rate of pension may be insufficient to maintain a basic, decent standard of living, and those most at risk of financial stress are single pensioners receiving the maximum rate of pension and living in private rental accommodation. The committee acknowledged that certain groups are more likely to be wholly reliant on pensions, including older women, people with severe disability or chronic illnesses, and those whose earning ability has been limited by their caring responsibilities. The committee recommended the Government review the suitability of the base pension levels through economic analyses of amounts required to achieve at least a modest standard of living for retired Australians.

333. On 15 May 2008, the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, announced that Dr Jeff Harmer, the Secretary of her department, would lead a comprehensive review of the pension system as part of the Government's broader review of Australia's Future Tax System.

334. The Pension Review is investigating measures to strengthen the financial security of seniors, carers, and people with disability by considering the:

- (a) Appropriate levels of income support and allowances, including the base rate of the pension, with reference to the stated purpose of the payment;
- (b) Frequency of payments, including the efficacy of lump sum versus ongoing support; and
- (c) Structure and payment of concessions or other entitlements that would improve the financial circumstances and security of seniors, carers and people with disability.

335. To inform the Pension Review, the Department of Families Housing Community Services and Indigenous Affairs recently invited interested people to share their views through a public consultation process involving both public meetings and written submissions. The meetings were held across Australia during August and September 2008.

336. Dr Harmer will report to the Treasurer and Minister Macklin, through the Chair of the Australia's Future Tax System Review Panel, Dr Ken Henry AC, by 28 February 2009.

**E. Article 10. Right to marry and found a family, protection
of the family, mothers and children**

Question 19. According to paragraph 384 of the common core document, child abuse remains a major concern in the State party. The large number of indigenous children in the child protection system indicates that the problem is particularly acute in the indigenous communities. Please elaborate on the measures which will be undertaken by the State party to redress the situation. Please provide further information on the indigenous-specific programmes mentioned in paragraph 122 of the common core documents, as well as on the results achieved.

Child protection statistics

337. The Australian Institute of Health and Welfare's *Child Protection Australia 2006-07* reported that:

- (a) Notifications of suspected child abuse and neglect increased from 107,134 in 1999 to 309,517 in 2007;
- (b) Substantiated cases of child abuse and neglect increased from 26,025 in 1997-98 to 58,563 in 2007;
- (c) The number of children in formal out-of-home care increased from 13,979 children in 1996 to 28,441 children in 2007;
- (d) Indigenous children are:
 - (i) More than five times as likely than non-Indigenous to be the subject of a substantiation;
 - (ii) More than seven times as likely to be on a care and protection order; and
 - (iii) Eight times more likely to be in out-of-home care;
- (e) Recurrent expenditure on child protection and out-of-home care services was approximately \$1.7 billion across Australia in 2006-07 - a real increase of \$199.8 million (13.7 per cent) from 2005-06 (source Report on Government Services 2008).

National framework for protecting Australia's children

338. In light of the increasing number of substantiated incidents of child abuse and neglect across Australia, the Council of Australian Governments (COAG) has endorsed the development of a National Framework for Protecting Australia's Children. This work is being led by the Commonwealth Government and in partnership with State, and Territory Governments and the community sector, through the Community and Disability Services Ministers' Conference. It is anticipated the national framework will be released in early 2009.

339. The Commonwealth Government has allocated \$2.64 million over three years (2008-11), to support the development and implementation of the national framework.

340. A targeted and intensive national consultation process was undertaken. In May 2008, the Australian Government released a discussion paper on the national framework for protecting Australia's children, *Australia's Children: Safe and Well*. The discussion paper proposed ways to improve responses to Indigenous children. While the discussion paper states that the needs of Indigenous children should be central to all initiatives progressed as part of the framework, it highlights the need for specific responses as well.

341. While the final shape of the national framework is still to be determined, the May 2008 discussion paper identified five options for possible inclusion in a national framework specific to Indigenous children. They are:

A common approach to protecting Indigenous children

342. A specific set of principles and approaches should be adopted for keeping Indigenous children safe, responding promptly and appropriately to the abuse and neglect of Indigenous children and providing them with stable and culturally strong out-of-home care. Tailored responses would be underpinned by clear principles and standards.

A better service model to protect Indigenous children in towns and cities

343. A new or extended service model should be trialled over a number of years to minimise risk to Indigenous children. The model should recognise the limited availability of appropriate out-of-home care placement options and the desirability of ensuring children remain connected to family and community as far as possible.

344. Child protection systems in each jurisdiction need to better support Indigenous-specific services that are focused on both family support and statutory services to ensure that there is a continuum of services and sources of information about individual children and families at the local level.

345. Commonwealth and state and territory governments, in consultation with the Secretariat of National Aboriginal and Islander Child Care and other Indigenous service providers, could jointly map service gaps and implement new service models for Indigenous families living in urban and rural areas. These could then be embedded within the agreed national and service level standards.

A better service model to protect Indigenous children in remote communities

346. Using the findings of the Australian Government's review of the Northern Territory Emergency Response and the work of the COAG Working Group on Indigenous Reform, an agreed national approach could be developed to tackle child abuse and neglect in remote communities.

(ii) More responsiveness to Indigenous children's issues within existing services

347. When reviewing their mainstream and Indigenous-specific programmes, all jurisdictions and non-government organizations should monitor the effectiveness of interventions in improving Indigenous children's safety, with a view to improving performance.

348. Responsiveness to the needs of Indigenous children could be a stand alone measure against which all jurisdictions are required to report as part of the national monitoring process.

Supporting compliance with the Aboriginal child placement principle

349. The aboriginal child placement principle legally requires that Indigenous children are placed in the care of Indigenous people wherever possible. It also upholds the rights of the child's family and community to have some control and influence in decisions being made about their children.

350. By focusing on why jurisdictions have varying experiences of implementing this principle, gaps in the availability of quality out-of-home care for Indigenous children could be identified.

351. Consideration could be given to innovative models that combine elements of family-based care with residential care.

352. Inter-jurisdictional protocols could be developed to enable Indigenous children to be placed with family interstate when that is in the child's best interests.

Indigenous family violence

353. Three Government-funded Indigenous-specific programmes that address child abuse and the safety needs of Indigenous children in Australia include:

Family Violence Regional Activities Program

354. The Family Violence Regional Activities Program (FVRAP) was established more than seven years ago under the former Aboriginal and Torres Strait Islander Commission (ATSIC).

355. FVRAP provides grants to community-based organizations to undertake activities that reduce and / or prevent family violence, sexual assault or child abuse within Indigenous communities.

356. FVRAP projects provide services such as counselling, conflict resolution and support to victims and perpetrators as well as community education and awareness and the promotion of child protection and safer communities. \$5.3 million is allocated in 2008-09.

357. FVRAP is currently funding 31 projects with a range of services offered including:

- (a) Counselling services;
- (b) Advocacy and case management services;
- (c) Education workshops: Anger management, conflict resolution and behaviour change programmes;
- (d) Women's support groups;
- (e) Parenting programmes;

- (f) Cultural activities for youth and young persons;
- (g) Family violence awareness including radio broadcasting;
- (h) Schools programmes including protective behaviour;
- (i) Family Violence Partnership Program.

358. On 29 August 2003 the National Framework for Preventing Family Violence and Child Abuse in Indigenous Communities was approved as a basis to progress collaborative responses to Indigenous child abuse and family violence.

359. The 2004-05 Budget provided \$60 million over four years to support measures to address Indigenous family violence. Originally announced to end after four years, the Family Violence Partnership Program (FVPP) was made an ongoing programme in May 2007.

360. The aims of the FVPP include:

- (a) Leverage greater action and commitment on the part of state and territory governments;
- (b) Build on the Australian Government's commitment to tackling family violence and child abuse in Indigenous communities;
- (c) Provide safe places and support for victims of family violence and child abuse;
- (d) Develop local solutions;
- (e) Address causal factors to effect sustainable change.

361. Key issues:

- (a) In partnership with state and territory governments FVPP has funded more than 30 projects addressing Indigenous family violence and child abuse;
- (b) Since 2004-05 the Australian Government has committed over \$50 million and the state and territory governments over \$42 million to FVPP projects.

362. FVPP has made sustainable new projects possible with Australian Government establishment funding (for example: for buildings, equipment, training or recruitment costs) and the commitment of ongoing operational funding from the state or territory government.

363. Project outcomes to date include:

- (a) Education kits for all Northern Territory (NT) schools to raise awareness of family violence and child abuse;
- (b) Family support resources produced in local Indigenous languages;
- (c) Training local facilitators to work with families within Indigenous communities;

- (d) Establishment of safe houses in communities in South Australia, NT and NSW;
- (e) Recruitment and training of child and family support workers in NSW and the NT;
- (f) Set up “Kids Living Safer Lives” program to foster relationships with police and community service providers on Cape York;
- (g) Establishment of two holistic family healing centres in rural Victoria;
- (h) Indigenous Family Healing project to employ and train counsellors and support workers in five locations across WA;
- (i) Recruitment of Aboriginal Liaison Officers to work with police in NSW and the NT;
- (j) Early intervention programmes aimed at youths and young persons based on leadership and strengthening of cultural practices;
- (k) Services to improve safety for young persons in four target communities in Queensland.

364. It is proposed that COAG will consider further reforms in 2009 relating to benchmarks and indicators for improvements in services and related outputs relevant to family and community safety.

Northern Territory Emergency Response (NTER)

365. As part of the NTER a Family Support Package was announced in September 2007.

366. Through the Family Support Package the Australian Government allocated \$12.3 million in 2007-08 to:

- (a) Establish or expand 22 safe houses;
- (b) Establish a Mobile Protection Team of ten workers;
- (c) Recruit 13 Aboriginal Family and Community workers to be placed in remote communities.

367. Key Issues:

- (a) From the 2008-09 Budget the Australian Government has \$9.5 million to contribute to the package;
- (b) The NT Government have indicated they will contribute \$2.1 million to the package;
- (c) Safe houses have been completed in 11 remote communities;
- (d) Safe houses are yet to be completed in 5 remote communities;

(e) Safe houses have been purchased and are being fitted out in Darwin and Alice Springs;

(f) The Family Support Package also aims to increase the capacity of the NT Government's child protection workforce by supporting the recruitment of child protection workers to establish a Mobile Child Protection Team;

(g) To date at least six child practitioners have been employed and recruitment is continuing;

(h) As at 29 September 2008, to date the Mobile Child Protection Team has visited 36 remote communities, has finalised 233 cases and has a current caseload of 61;

(i) As at 29 September 2008, eight Aboriginal Family and Community Workers have been recruited and are operational in remote communities. Four are still to be recruited.

368. In 2008-09, \$1.073 million funding is provided under the Northern Territory Emergency Response for support for early childhood development and children and family support services. The funds are for five facilitated playgroups (2 Intensive Support Playgroups and 3 Locational Support Playgroups) under the Playgroup Program, and the expansion of existing projects providing children and family support under the Indigenous Children Program and the Invest to Grow Program.

369. In addition, the Indigenous Children Program was formed in January 2006. The Indigenous Children Program delivers early intervention and prevention programmes via services targeted at improving outcomes for Indigenous children and families, particularly those at risk of abuse and neglect. \$10.539 million has been allocated to this programme from 2007 to 2009.

370. The Government is also committed to invest \$16.6 million over four years to implement the new Early Learning and Development Services - Parenting Support (Indigenous Parenting Support Services). These services will be integrated into existing platforms such as child care centres, Aboriginal community controlled health centres and other related services that provide Indigenous families with access to enhanced parenting support.

371. It is proposed that up to 50 services be implemented over 4 years. Eight services were implemented in 2007-08 and remaining number of services to be rolled out over subsequent years commencing 1 July 2008.

372. *Footprints in Time* is the Longitudinal Study of Indigenous Children (LSIC), designed to collect data about 2200 Indigenous children aged between 6 months and 18 months and between 3 ½ and 4 ½. The study is being conducted in 11 sites across Australia which include remote, regional and urban locations. The parents or carers of children will be interviewed each year for a minimum of 4 years. The interview covers many areas of the child's life such as health, culture, education, housing, and family relationships.

373. The interview does not ask any questions directly regarding child abuse as the study is designed to gather a broad range of information about the child's life. However, there are questions which can identify the possibility of child abuse occurring in the household. Parents are asked whether, in the last year, any of their children had been involved in or upset by family

arguments or been badly scared by other people's behaviour. Parents are also asked if they have been visited by a social worker in the past year and whether any of their children have had to be cared for by someone else for at least a week which may indicate a history of family problems. A question about whether the parent rates their community/neighbourhood as safe may also be an indicator for the occurrence of child abuse in the household. These questions could be asked in each wave so we may be able to collect data of trends over time. However it must be noted that the data collected by LSIC is not representative of the Indigenous population.

374. Judicial Cultural Awareness Training - The Australian Government will spend \$0.5 million over four years to fund the National Judicial College of Australia to deliver cultural awareness training to assist judges and magistrates to better understand Indigenous issues.

375. The College has established a system of committees of judges across Australia to develop and deliver the Indigenous cultural awareness programmes. The National Committee drafted a curriculum to guide the development of programmes and this has now been finalised following consultation with judicial officers and Indigenous representatives. The committees are now developing programmes based on the curriculum including criminal sentencing, customary law and cultural principles and appropriate administration of bail regimes.

376. The initial allocation of funding for the programme (\$174,000) was paid to the College in 2007-08 for distribution through State committees. The programme will be evaluated in 2010-2011.

377. Customary Law - Amendments to Commonwealth Crimes Act 1914 were passed on 7 December 2006. Amendments provided that no customary law or cultural practice excuses, justifies, authorises, requires, or lessens the seriousness of criminal behaviour (including violence or sexual abuse) in bail and sentencing decisions for Commonwealth offences.

378. The changes to bail and sentencing law were progressed at the 14 July 2006 COAG meeting. Ministers agreed that no customary law or cultural practice excuses, justifies, authorises, requires or lessens the seriousness of violence or sexual abuse and that their laws would reflect this. AGD understands that no state or territory has amended its legislation in this regard.

379. Bail determinations and enforcement - Amendments to the Commonwealth Crimes Act 1914 were passed on 7 December 2006. The amendments require that a bail authority must:

(a) Take into consideration the potential impact of granting bail on alleged victims and witnesses; and

(b) Take into consideration the fact that an alleged victim or witness is located in a remote community in considering the potential impact of granting bail on alleged victims or witnesses.

380. At the Standing Committee of Attorneys-General (SCAG) meeting in July 2007, jurisdictions agreed to take forward non-legislative recommendations and undertake further work, including the provision of information on best practice bail support programmes.

381. At their July 2008 meeting, SCAG Ministers requested National Justice Chief Executive Officers (NJCEOs) develop:

(a) A proposal to strengthen the ability of Indigenous communities to contribute to bail decisions concerning members of their communities; and

(b) A proposal to strengthen data collection on Indigenous participation in and completion of mainstream diversion programmes.

Northern Territory Government initiatives supporting the Northern Territory Emergency Response

382. Closing the Gap is the NT's Indigenous Generational Plan, aimed at closing the gap in outcomes between Indigenous and non-Indigenous Territorians (detailed information available at www.action.nt.gov.au). It contains objectives for the future socio-economic wellbeing of Indigenous Territorians and sets ambitious but achievable targets for the next five, 10 and 20 years. It also identifies priority areas for action in the next five years, based on the best available evidence.

383. The NT Government has committed A\$286.43 million towards five-year actions to implement Closing the Gap. The package includes 223 positions:

- One Children's Commissioner
- 10 child protection workers
- 37 additional specialist Family and Children's Services (FACS) staff
- 40 police - Remote Policing Strategy and Child Abuse Taskforce
- Four specialist alcohol rehabilitation workers
- 26 family violence support workers
- 10 school counsellors
- 10 community corrections officers
- 47 teachers and assistant teachers for remote schools and preschools
- Three specialist Department of Employment, Education and Training staff
- Two court clinicians
- One witness assistance officer
- Eight alcohol compliance inspectors
- One Aboriginal and Islander education coordinator
- 23 specialist staff for the Child Abuse Taskforce

384. Further details of the Closing the Gap measures being implemented follow.

385. Legislative reforms:

(a) Passage of the Care and Protection of Children Bill in 2007, to replace old legislation and provide for a Children's Commissioner and other child protection measures;

(b) Introduction of legislation into the Legislative Assembly in August 2007, to facilitate reform of local government, in particular in remote and rural areas;

(c) Declaration of dry areas under 2006 amendments to the Liquor Act, commencing with Alice Springs on 1 August 2007 and progressing to other areas;

(d) Further amendments to the Liquor Act in August 2007 to empower the Minister to implement urgent liquor supply measures, to implement alcohol restrictions in town camps and to provide power to police to search vehicles;

(e) Passage of the Evidence of Children Amendment Bill in August 2007 to provide greater protection for child victims and witnesses. Further reform of the laws of evidence by possible adoption of the national uniform Evidence Bill;

(f) Introduction of legislation amending the Bail Act so as to protect witnesses and victims, and reverse the presumption in favour of bail in regard to an accused person charged with a (classified) serious sexual offence;

(g) Introduction of new domestic violence legislation into the Legislative Assembly in late 2007 to improve the effectiveness of restraining orders, including their effectiveness in remote communities;

(h) Development of legislation to reform the committal system (and reduce the involvement of victims of crime in the criminal law system).

386. Safety - child protection - A\$79.36 million:

(a) Strengthen the child protection system by introducing the Care and Protection of Children Bill, establishing a Children's Commissioner, expanding Child Abuse Taskforce to include 23 Families and Community Services staff and 24 police, recruiting 10 additional child protection workers, expanding Sexual Assault Referral Centres, improving case management, and recruiting 10 school counsellors;

(b) Introduce Evidence of Children Amendment Bill and new domestic violence legislation.

387. Safety - policing, justice and family violence - A\$38.61 million:

(a) Implement the Remote Area Policing Strategy, in partnership with the Australian Government, including 16 additional police;

- (b) Establish 10 community courts, employ 10 community corrections officers and establish a witness assistance service in Katherine;
- (c) Introduce integrated community based family violence programmes;
- (d) Continue the Juvenile Diversion Program, within existing resources;
- (e) Implement sexual offender rehabilitation and therapy programmes and expand the Elders Visiting Program;
- (f) Implement a pornography and gambling education programme.

388. Safety - alcohol and drug management - A\$10.11 million:

- (a) Introduce amendments to the Liquor Act and declare dry areas;
- (b) Implement alcohol management plans and a licensing identification system, recruit eight compliance officers and two court clinicians, and expand the Return to Home programme.

389. Health - A\$23.4 million:

- (a) Establish integrated family/children centres in remote communities to deliver early childhood education and health programmes;
- (b) Expand alcohol rehabilitation and treatment services;
- (c) Provide sport and recreation programmes and infrastructure in each local government shire;
- (d) Expand and implement programmes targeting hearing loss and preventable chronic disease.

390. Housing - A\$42.32 million:

- (a) In partnership with the Australian Government, work to address the backlog in remote Indigenous housing;
- (b) Negotiate with the Australian Government for a significant share of the \$1.6 billion ARIA program;
- (c) Roll out the \$100 million NT Government commitment to remote housing over five years;
- (d) Provide houses for the growth in government employees to be based in remote communities, at a cost of \$42.32 million.

391. Education - A\$70.68 million:

- (a) Provide six new mobile preschools and 21 teachers and assistants;
- (b) Recruit 26 teachers across the territory, build 15 classrooms, establish a school attendance team, upgrade two homeland learning centres and 15 community education centres;
- (c) Develop partnership programmes to improve student engagement and community involvement.

392. Jobs - A\$13 million:

- (a) Transition Community Development Employment Project (CDEP) jobs supporting Northern Territory Government activities to mainstream Northern Territory Public Sector positions;
- (b) Implement Indigenous economic development initiatives;
- (c) Develop a component under the 10 Year Infrastructure Plan for road access to remote areas;
- (d) Use current and future Indigenous housing construction programmes and capital works programmes to facilitate opportunities for training and employment of local Indigenous people.

393. Culture - A\$0.5 million:

- (a) Expand Indigenous culture programmes in Northern Territory Government schools;
- (b) Implement cross-cultural programmes in the Northern Territory public sector;
- (c) Implement a whole-of-government Indigenous communications strategy;
- (d) A better way of doing business - A\$8.45 million;
- (e) Establish an Indigenous Affairs Advisory Council to the Chief Minister;
- (f) Establish local community boards to allow community representation and involvement in local government, to promote Indigenous leadership and provide the basis for Indigenous people to meet their obligations to build a better future for their children;
- (g) Provide infrastructure to support local community governance.

Please provide further information on the Indigenous-specific programmes mentioned in paragraph 122 of the common core document, as well as on the results achieved.

State/territory responses

Australian Capital Territory

394. Like other jurisdictions the ACT has undertaken a number of Care and Protection reforms.

395. The major reforms undertaken in the ACT since 2004 have included:

- (a) The centralization of child protection service provision and an outreach model of service to children and families;
- (b) The undertaking of an Indigenous Gathering and consultation with members of the Aboriginal and Torres Strait Islander communities regarding the provision of care and protection services;
- (c) Establishment of two Child and Family Centres to promote and develop early intervention and prevention services for vulnerable children and their families;
- (d) Agreement of all relevant Government Departments and agencies to a shared responsibility protocol for the protection of children in the ACT;
- (e) Development and implementation of the Children and Young People Act 2008, legislation affecting children, young people and families in areas of child protection, youth justice, child care and employment;
- (f) Improved child protection policies and practices reflecting child centred, family focused, inclusive, consultative, holistic and best practice policies;
- (g) Compliance with the statutory requirements of the Children and Young People Act 1999 and the Human Rights Act 2004;
- (h) Establishment of the Institute of Child Protection Studies at the Australian Catholic University to inform and support the development of evidence based child protection policies and practices;
- (i) Development of a consistent casework management model;
- (j) Development of strong working relationships with other ACT Departments providing services to children and families such as ACT Health, Department of Education and Training, Department of Justice and Community Safety;
- (k) Development of Memoranda of Understanding with departments and agencies including ACT Policing (SACAT), Domestic Violence Crisis Service and ACT Health;
- (l) Recruitment and retention initiatives for maintaining and improving the quality of services provided by staff, including training, tertiary education and supervision;

- (m) Development of accredited training for foster and kinship carers;
- (n) Review of service models and recontracting with the out of home care and family support sectors to support innovative and targeted programme delivery;
- (o) Independent review and implementation of recommendations concerning the death or near death of children who at some time in their lives were known to Care and Protection Services;
- (p) Development of Integrated models of Family Support provision for vulnerable families;
- (q) Engagement with statutory oversight bodies to ensure positive outcomes are achieved for children and young people; and
- (r) The establishment of the Aboriginal and Torres Strait Islander Services Unit to inform and advise on Indigenous policy development and jointly work with agencies to support vulnerable Indigenous families.

396. In 2008, the ACT has seen a stabilisation of the number of Indigenous Australians coming into contact with the care and protection system. This stabilisation of overrepresentation of Indigenous Australians in the child protection system is largely due to the Children and Young People Amendment Act 2006, which has subsequently been revised and is now incorporated in the Children and Young People Act 2008.

397. Cultural care plans are developed for all Indigenous Australians who indicate they are Indigenous. The Aboriginal and Torres Strait Islander Services (ATSIS) Unit, Office for Children, Youth and Family Support, supports the care and protection officers through the Aboriginal and Torres Strait Islander Family Support Program and provides temporary support accommodation for Indigenous children and young people through the Narrabundah House Indigenous Supported Accommodation program.

The ACT Homelessness Charter - A Statement of Rights

398. A key deliverable of *Breaking the Cycle* was the development of the *ACT Homelessness Charter*, to recognize and promote the rights of people experiencing homelessness. The Charter was launched by the ACT Minister for Disability and Community Services in April 2008 and recognizes clients' rights of Inclusion; Dignity, Respect, Non-Discrimination; and Rights to Safety and Freedom as particularly important to people experiencing homelessness. The Charter was released in both poster size and wallet format and is displayed and available in SAAP and other community agencies and government departments and is available at www.dhcs.act.gov.au/hcs. The Charter clearly promotes a rights based approach to service delivery within SAAP services and 'grounds' the rights delineated in the ACT Human Rights Act 2004.

Child abuse-particularly in indigenous communities-elaborate on the measures undertaken to redress

399. Mandatory training in Child Protection is a policy upheld throughout ACT Health.

400. ACT Health continues to develop collaborative relationships with The ACT Child at Risk Health Unit, the ACT Policing Sexual Assault and Child Abuse Team, the Office of the Director of Public Prosecutions and Care and Protection Services (e.g. establishing the Child Protection Advisory Committee).

401. The Indigenous Integrated Service Delivery (IISD) Project was developed by Department of Housing and Community Services, Department of Education and Training and ACT Health during 2006-07 as a Government funded initiative. The project seeks to divert at-risk children away from the statutory care and protection system, reduce care and protection reports and re-reports, improve access to services and improve families' and children's well being through provision of integrated health services, education and family support to vulnerable Aboriginal and Torres Strait Islander families. In the 2008-09 Budget, the ACT Government committed 2.46 million over four years to expand this project. The additional funding will allow the programme to be expanded from five families involved in the pilot programme to 20-25 families depending on the size of the family and the complexity of issues.

New South Wales

Commissions of Inquiry

402. In NSW, a Special Commission of Inquiry into Child Protection Services was announced on 14 November 2007 and will report by 31 December 2008. This is a major inquiry, which is expected to assist NSW in reforming the child protection system to improve outcomes for children and families and cope with future levels of demand.

Transfer of child protection orders

403. NSW has now joined the other jurisdictions in implementing the transfer of child protection orders agreements.

Aboriginal Child Sexual Assault Taskforce

404. In July 2004, the Attorney General of NSW established an Aboriginal Child Sexual Assault Taskforce (ACSAT) to examine how State government agencies were responding to child sexual assault in Aboriginal communities. ACSAT's report, *Breaking the Silence: Creating the Future*, released in 2006, found that improvements could be made in several areas, including preventing and identifying child sexual assault, community engagement and the implementation, monitoring and evaluation of programmes and services.

405. The NSW Government responded to the ACSAT Report with a *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities 2006-2011*. The Plan to improve government services to Aboriginal families and children includes robust law enforcement to ensure safe communities, effective and consistent child protection responses for children at risk of harm, accessible prevention and early intervention services for families, and measures to build community leadership and support, to reduce and prevent child sexual assault in the short and long-term.

Queensland

406. The role of the Department of Child Safety is to protect children from harm, or risk of harm, and find them safe places to live when their parents cannot or will not care for them. Children come into care because they need to be kept safe, and this principle applies to all children no matter where they live in Queensland and no matter what culture they come from.

407. Since 2006, the Department has undertaken a number of initiatives to enhance the delivery of services to Aboriginal and Torres Strait Islander children, families and communities. These include:

(a) The doubling of staff numbers in offices in the Cape region, which has a significant number of Aboriginal communities, from 30 to 60 since 2004;

(b) The creation of specialist positions in each service centre to support the complex work our staff face daily - among these are child safety support officers whose role is to support and liaise with Aboriginal and Torres Strait Islander communities to ensure their children remain safe. Many of these officers are Aboriginal and Torres Strait Islander themselves and bring with them valuable cultural knowledge that is shared with their peers;

(c) In terms of placement options, the Department is establishing residential care premises under the Safe House Program in Pormpurraw, Kowanyama, Aurukun, Napranum, Palm Island and Doomadgee, with a smaller foster care facility in Yarrabah. The purpose of these facilities is to support children while it is unsafe for them to remain at home. Family Intervention Service workers, who are part of the Safes House Program, will work intensively with parents to help them address any issues that may be putting their children at risk, with a view to returning them home. This allows the children to stay in the communities close to their support networks.

408. The 2008-09 State Budget has provided for four additional Safe Houses planned for Mornington Island, Northern Peninsula Area of Cape York, Thursday Island and Eastern Cape York. The Department of Child Safety is also funding:

(a) Residential care services for children and young people at risk of harm in Cherbourg and Woorabinda; and

(b) A residential care service in a therapeutic healing environment for up to eight young Aboriginal and Torres Strait Islander people from West Cape York communities located near the community (Atherton Tablelands) and providing a transition for young people returning from 'off-community' residential facilities to assist with re-integration.

409. Other Queensland Government agencies are funding residential care services in Logan (Brisbane South) and Toowoomba for children at risk of harm.

410. Independent Aboriginal and Torres Strait Islander organizations and individuals (Recognised Entities) have been introduced, funded and supported across the state. Their role is to assist the Department in decision making processes and to provide local cultural advice.

411. A specialized foster care recruitment campaign, aimed at Aboriginal and Torres Strait Islander people, has been rolled out to provide culturally appropriate, stable placements to ensure 'best fit' care for Indigenous children in need of out-of-home care.

412. In line with the Family Responsibilities Commission legislative requirements, the Department is implementing the Cape York Welfare Reforms to improve service delivery to remote Indigenous communities.

413. The Child Protection Act 1999 requires all Aboriginal and Torres Strait Islander children and young people to be placed in accordance with the Child Placement Principle which prioritises placements with kin community, and other Indigenous carers, in that order.

414. The Department requires all Aboriginal and Torres Strait Islander children in care to have a Cultural Support Plan as part of their case plan. This approach aims to ensure Aboriginal and Torres Strait Islander children maintain significant relationships and an ongoing connection with their family, community and culture, as well as develop a strong positive sense of their Aboriginal and Torres Strait Islander identity.

415. It is mandatory for all staff to have generic and specific cultural training that is appropriate to the communities in their work areas.

416. To support the Department's recognition of the unique status of Aboriginal and Torres Strait Islander people as the original owners and custodians of Queensland land and waters an Indigenous Service Delivery Plan has been developed, making explicit the Department's commitment to the provision of culturally appropriate and quality service to Aboriginal and Torres Strait Islander children, young people, their families and communities.

South Australia

417. In June 2007, the Commonwealth contributed \$1.6m to enable the South Australian Government to expand its existing Inquiry into the Abuse of Children in State Care to examine allegations of sexual abuse on the APY Lands.

418. By August 2007, sufficient information was available for the Commonwealth and South Australian Governments to initiative some immediate measures. The Commonwealth committed \$7.5m for police stations, police housing and associated infrastructure at Amata and Pukatja (both on the APY Lands). The State committed four additional police officers, two child protection workers and two school counsellor positions to the Lands as part of this response.

419. At this time, the Commonwealth also committed \$7.1m for day centres for Aboriginal people with alcohol and drug misuse problems. These will be located in Port Augusta, Ceduna and Coober Pedy - the Ceduna and Port Augusta are expected to be operational by mid 2008, while the Port Augusta day centre is due for completion in late 2009.

420. The Commission of Inquiry into Child Sexual Abuse on the APY Lands, led by Commissioner Mullighan, ultimately found abuse to be widespread and underreported. In May 2008, the Premier tabled the Mullighan report in Parliament and announced that community safety would be a top priority.

421. The Inquiry report has 46 recommendations covering the expansion of child protection services and other initiatives on the Lands; improvements to service standards; strategies to rebuild community confidence to protect children; stronger governance arrangements; and establishing infrastructure to support services and housing needs of communities.

422. The SA Government has given top priority to increasing community safety including committing a further eight police officers and five social workers to be based on the Lands. Attention is also being given to a range of inter-agency strategies to prevent child abuse and provide support to vulnerable parents.

423. In support of these efforts, the Commonwealth provided \$19.5m for a third police station on the Lands, as well as staff housing and an administration/court centre at Umuwa (the administrative centre of the APY Lands).

424. As required by the Act establishing the Inquiry, an overview of the Government's initial response was tabled in Parliament in July 2008 and an implementation plan is being prepared. The Department for Families and Communities is preparing this report as the legislation is referred to its Minister.

425. A Taskforce of senior officers from relevant State Government agencies and Commonwealth representatives has been established to drive the implementation of the recommendations. NPY Women's Council and Nganampa Health have been invited to join.

Tasmania

426. Tasmania continues to work to address child protection issues in the Indigenous community in the context of significant reforms to the broader child protection system. A formal kinship care programme was introduced in June 2006 with the aim of increasing placements of Aboriginal children placed with kin under the Aboriginal Child Placement Principle. There have been some constraints and barriers in implementing this programme and a review is planned.

Victoria

427. Victoria is committed to reducing the number of Aboriginal children in the child protection system and has a range of integrated preventative and specialist services for Aboriginal children. The Children, Youth and Families Act 2005 provides the legislative base for regional Child First Intake points of which Indigenous Integrated Family Services are part.

428. For Aboriginal children in the child protection and placement system, the Act incorporates clear decision making principles. The Aboriginal Child Specialist Advice and Support Service contribute culturally based assessment, practice and planning advice to child protection regarding all Aboriginal children subject to child protection intervention.

429. Several programmes including Aboriginal Family Restoration, Family Decision Making and Cultural Support planning aim to promote family involvement and maintain connectedness with a child's extended family, community and culture. These programmes are located in every region across the state.

Western Australia

Department of Education and Training

430. In 2007, The Ford Report outlined a review of Western Australian Child Protection Services and made a number of recommendations all of which were accepted by Government. Recommendations included:

- (a) Ensure Government provides a coordinated response and services to vulnerable children and young people and their families, including those who are in the care of the State;
- (b) Identify and address systemic blockages in the delivery of services that promote child safety and wellbeing, including children and young people who are in the care of the State; and
- (c) Identify existing and emerging issues and gaps in service delivery and potential government responses in the delivery of services for child protection and for children and young people in care.

431. The Department has been involved as a key stakeholder in an ongoing cross Government response to address these recommendations particularly in relation to establishing processes and protocols for supporting children in care. The response is led by the Child Safety Director's Group comprised of senior representatives of relevant agencies such as the WA Police and the Departments of Health and Child Protection.

432. In January 2009, teachers, doctors, nurses and midwives and police will become mandatory reporters of alleged child sexual abuse under the amended Children and Community Services Act 2004. The Department has been allocated \$5.1 million over three years to establish a Child Protection Team to support the implementation of this legislation. The team has reviewed and strengthened the Department's Child Protection policy and is developing a range of on line training materials and face to face training programmes customised for staff in rural and remote areas. The team will also provide:

- (a) Ongoing support to schools through District Student Services teams;
- (b) Strengthening of existing interagency partnerships in rural and remote areas to provide coordinated support to children reported to Department for Child Protection and reporters; and
- (c) Development of a sustainable and cost effective long term strategy to support mandatory reporting.

433. The Department also provides ongoing curriculum support to school inclusive of protective behaviours and building and developing healthy relationships. Mainstream curriculum programmes may also be modified at the school level to meet the need of indigenous students.

Department of Racing, Gaming and Liquor

434. Whilst the Department of Racing, Gaming and Liquor is not involved with specific strategies to reduce child abuse in WA, it is worth noting some recent harm minimization initiatives undertaken by the Department, which may indirectly contribute to achieving this directive.

435. On 19 July 2007, the Marninwarntikura Fitzroy Women's Resource and Legal Centre wrote to the Director of Liquor Licensing seeking consideration of the imposition of conditions on the Crossing Inn Licence, pursuant to the provisions of section 64 of the Liquor Control Act 1988. The request arose from concern about the extent of alcohol related crime and harm occurring in the Fitzroy Valley region. This included child abuse and neglect. This claim is supported by the 2002 Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities (also known as 'the Gordon Inquiry'), which suggests that alcohol abuse is a contributing factor to violence in indigenous communities. Following a six month trial and an assessment which concluded that restrictions were in the public interest, the following conditions have been imposed indefinitely on the Crossing Inn licence:

1. The sale of packaged liquor, exceeding a concentration of ethanol in liquor of 2.7 per cent at 20oC, is prohibited to any person, other than a lodger (as defined in section 3 of the Act).
2. The licensee must provide quarterly sales data reports to the licensing authority which identify on premises liquor and packaged liquor sales.

436. Whilst the long term effects of this initiative are yet to be determined, community responses after the initial six month trial included observations that incidents of domestic violence had decreased and children were "...being better looked after and are going to school more regularly".

437. As a result of the restrictions placed on the Crossing Inn, representatives of the Wangkatjungka Aboriginal community sought assistance from the Government to prohibit the transporting in and possession of liquor in their community. It was considered that such a prohibition would assist with improving the lives of children who have suffered from the effects of alcohol abuse in this community. On 23 April 2008, the Liquor Control (Wangkatjungka Restricted Area) Regulation 2008 came into operation. This Regulation prohibits a person from bringing in and possessing liquor in the restricted area defined as the Wangkatjungka Aboriginal Community. The Regulations have effect until April 2009 (unless repealed sooner) at which time the long term effects may also indicate that the incidence of child abuse has been reduced in this community.

438. In July 2008, the Coroner released his report into the deaths of five residents of the remote Oombulgurri Aboriginal Community. The report found that alcohol abuse has been a major problem in the Oombulgurri Aboriginal Community for a number of years and recommended that consideration be given to the making of regulations pursuant to section 175 (1a) of the

Liquor Control Act 1988, which would make the Oombulgurri Aboriginal Community a restricted area (as is the Wangkatjunga Aboriginal Community). The Government is currently considering the implementation of such a Regulation.

439. All three initiatives have resulted from community concerns on an array of social problems where alcohol abuse appears to be a contributory factor, particularly in Aboriginal Communities. Such problems include child abuse and it is considered that by reducing alcohol related harm, the incidence of child abuse, as well as other types of abuse and crime, will be reduced. Therefore these initiatives may have an indirect effect on redressing the issue of child abuse in Western Australian indigenous communities.

Department of the Attorney General

440. As a result of a large scale investigation into sexual abuse of children in remote WA communities, the Intervention Taskforce, a large number of arrests and subsequent charges have been laid against alleged sexual offenders in the region.

441. In July 2007 the Chief Justice formed a multi-agency taskforce, the Indigenous Justice Taskforce, to deal with the increased number of prosecutions which arose as a result of the investigations in the Kimberly region. The issues considered by the Taskforce included the protection and support of victims during trial proceedings.

442. Measures which have been taken ensure the protection of victims include:

- (a) The provision of better audio-visual facilities to enable evidence to be heard remotely, and therefore provide a safer environment for the witness;
- (b) The engagement of additional Victim Support Service workers to service the area;
and
- (c) Coordination with the Office of the Director of Public Prosecutions to enable victim and witness support services to be available immediately following charges being laid.

443. The Chief Justice committed judges from the Supreme Court to the District Court to ensure sufficient judicial resources were available to facilitate the expedition of these cases and additional circuit sittings were arranged to hear the cases, which prevented the victims from experiencing unnecessary delays.

Department for Child Protection

444. Measures that the Department for Child Protection is undertaking to address child abuse and neglect in Indigenous communities include:

Legislation and protocols

445. The Department for Child Protection (the Department), through its administration of the Children and Community Services Act 2004 (the Act), provides for the protection and care of

children in circumstances where their parents have not provided, or are unlikely or unable to provide, that protection and care. The Department is also responsible for supporting at risk individuals and families in resolving crisis.

446. The Act provides clear principles in regards to promoting and safeguarding the wellbeing of children and young people, including:

- (a) Principle that best interests of the child is the paramount consideration and matters that must be taken into account when determining the best interests of the child;
- (b) Guiding principles that must be observed in the administration of the Act;
- (c) Principle of child participation;
- (d) Principles relating to Aboriginal and Torres Strait Islander children (eg. Aboriginal and Torres Strait Islander child placement principle; Principle of self-determination; Principle of community participation).

447. Promoting interagency collaboration and information sharing is a key strategy to improving responses to Indigenous children who are at risk of or have been harmed through abuse or neglect. The Department of Indigenous Affairs' framework, Safer Communities Safer Children, provides an across-government model to respond to disclosures of child sexual abuse in Indigenous communities.

Working in partnership with the Australian Government

448. The Department is represented on various Council of Australian Governments (COAG) and Community and Disability Services Ministers Conference (CDSMC) Working Groups, including:

- (a) The Bilateral Working Group on Indigenous Affairs;
- (b) The COAG Working Group on Indigenous Reforms;
- (c) COAG Early Childhood Development Sub-Group;
- (d) CDSMC National Framework for Protecting Australia's Children Working Group;
- (e) CDSMC Child Protection Information Sharing Working Group.

Child protection reforms

449. The Department is making substantial progress on a raft of structural and practice reforms as a result of the Ford Review. All 36 reform projects are aimed at improving responses to

children and young people at risk of or have been harmed through abuse and neglect, including those that affect Aboriginal and Torres Strait Islander children and young people. Examples of these reform projects include:

- (a) Established the community Aboriginal Reference Group to provide input into policy, practice and staff development and training;
- (b) Expansion of *Gordon Inquiry* initiatives to strengthen and secure ongoing initiatives including the Strong Families Program, Community Child Protection Workers, Youth and Family Engagement Workers and Best Beginnings Program;
- (c) Strengthening whole-of-government partnerships through the establishment of the Interagency Child Safety Directors' Group and Regional Child Safety Coordinating Groups;
- (d) Adopting *Signs of Safety* as the Department's child protection practice framework;
- (e) The introduction of mandatory reporting legislation requiring doctors, nurses and midwives, teachers and police to report child sexual abuse;
- (f) Interagency early intervention project - to develop collaborative working arrangements with service providers and families with a focus on pregnancy and the newborn period;
- (g) Income Management as a Child Protection Measure - a Commonwealth and State Government initiative to enable the Department for Child Protection to use income management as a case management tool to assist in addressing child neglect. This initiative will shortly commence in the Department's Cannington, East Kimberley and West Kimberley Districts.

450. As a result of the Gordon Inquiry in 2002, significant amount of resources were provided to a number of government agencies to improve responses to Aboriginal and Torres Strait Islander children and young people who have experienced or are at risk of abuse and neglect. These include:

- (a) Multi-functional Police Facilities in rural and remote areas at which the Department's Remote Community Child Protection Workers are co-located with police officers; and
- (b) Expansion of the Princess Margaret Hospital's Child Protection Unit to provide a therapy service for children and young people who have been sexually abused.

Victim support services in regional areas

451. In addition to its statutory functions, the Department provides funding to the community sector to provide a range of social services to children, families and individuals, such as family counselling, family and domestic violence support and counselling services, financial counselling, child sexual abuse treatment services and placement services. While all the Department's funded services are accessible to Aboriginal and Torres Strait Islander children,

young people and their families, some are targeted specifically for them, including Aboriginal women's refuges, Indigenous placement services for children and Indigenous Child Sexual Abuse Response Services.

WA Police

452. The Western Australia (WA) Police has supported Government strategies to address issues of family violence and child abuse within Indigenous communities.

453. WA Police has been a key stakeholder in the Government's response to the Gordon Inquiry and report *Putting the Picture Together: Inquiry into Response by Government Agencies to Complaints of family Violence and Child Abuse in Aboriginal Communities (2004)*. The resultant Government Action Plan has given direction to the strategic approach by the State to Indigenous Affairs in particular the required framework to address child abuse and family violence in Indigenous communities. WA Police has supported the whole of Government approach and has participated in the Governance structures and processes that have been established to address the issue.

454. Implementation of the Gordon Action Plan and the "Safer Communities Safer Children" model resulted in the establishment of Multi Functional Police Facilities (MFPF) located in remote communities around West Australia. These are manned by both Police and child protection workers. This approach has seen positive results, including timelier responses to incidences of violence and abuse, increased confidence in reporting offences, greater feelings of safety and an environment for a safer community. This is evidenced by developments in 2007 in the Kimberley Region of the State.

455. An effect of enhanced law and order is that between February and July 2007 there was a dramatic rise in the number of disclosures of child abuse. As a result of this the WA Police formed a Police Task Force to investigate these complaints and improve child safety.

456. MFPFs have been developed in remote parts of the State in the following Aboriginal communities:

- (a) Kalumburu (Kimberley);
- (b) Bidyadanga (Kimberley);
- (c) Balgo (Kimberley);
- (d) Warburton;
- (e) Dampier Peninsular (Kimberley);
- (f) Warmun (Kimberley);

(g) Jigalong (Kimberley);

(h) Kintore (Central Lands) - a WA police officer is stationed at Kintore in the NT and is a Multi-jurisdictional site;

(i) Warakurna (Central Lands) - an NT police officer is stationed at Warakurna and is a multi-jurisdictional site.

457. A second stage of development has commenced for the development of MFPFs in a further three remote communities. The additional sites being:

(a) Looma (Kimberley);

(b) Burringurrah (Midwest-Gascoyne);

(c) Blackstone (Central Lands).

458. These sites are proposed to accommodate two police officers and a Department of Child Protection (DCP) Child Protection Worker in each of these locations with completion expected by early 2009.

459. An additional site at Oombulgurri (Kimberley) has been progressed as a Police Post with police performing continual reliefs on rotation. A DCP Remote Community Child Protection Worker position has also been funded for the community operating within the MFPF joined up service delivery concept from the police post.

Cross Border Justice Bill 2007

460. The Cross Border Justice Project (NT, SA and WA) was established in November 2003 to improve police and justice related services in the Central Australian border region, known as the NPY Lands.

461. The project is a result of recognition of the significant levels of domestic violence, sexual abuse and substance misuse in the region. Agreement has been reached to examine the development of legislation and policies to enable the courts and police to operate cooperatively across borders. The Cross Border Justice Bill will facilitate improved cross border justice services to this region and is due for implementation in 2009.

*Australian Crime Commission - Indigenous Violence and Child Abuse Task Force
National Indigenous Intelligence Task Force (NIITF)*

462. WA Police has supported the initiative of the establishment of the Australian Crime Commission and the National Indigenous Intelligence Task Force (NIITF) In 2006 WA Police committed to providing two police staff (analysts) to the NIITF.

463. The initiative has been consistent with the objective of improving service delivery and coordinated whole of government strategies to improve combating violence and child abuse in Indigenous communities.

464. Many of these issues experienced in WA were also highlighted by recent inquiries including the 2008 SA Mullighan Inquiry Children on Anangu Pitjantjatjara Yankunytjatjara (APY) Lands, Commission of Inquiry: A Report into Sexual Abuse, the 2007 NT Wild and Anderson Report Ampe Akelyernemane Meke Mekarle "Little Children Are Sacred". The NIITF has also identified a high level and severity of violence and child abuse occurring in this region compounded by underreporting, a lack of information sharing and confidence in agency responses.

Evaluation

465. As part of the Gordon Action Plan the Government was committed to undertake a formal evaluation, the first stage of which has been completed. The Department of Indigenous Affairs is the lead Agency for this undertaking.

Question 20. With respect to articles 7 and 10 of the Covenant, please comment on the extent to which the laws that specifically protect children from particular health risks in the workplace apply uniformly across the industries. In addition, please also indicate whether the State party envisages ratifying ILO Convention 138 (1973), concerning the Minimum Age for Admission to Employment.

A new workplace relations system

466. The Australian Government is committed to ensuring fairness for young people at work. Under the proposed new workplace relations system young workers will benefit from a strong safety net including minimum wages and conditions, and greater security of employment.

467. A range of Commonwealth, state and territory legislation currently provide for compulsory attendance at school to at least age 15 in addition to minimum ages for employment in selected occupations and child welfare legislation. Legislation also imposes on employers in every industry a duty of care to provide a safe working environment for all employees, including children.

468. The Government has committed to working with stakeholders, including State Governments, to develop a National Code of Practice for Young Workers. The Code will be voluntary and will deal with matters like rostering arrangements for children during school hours, training and mentoring in the workplace and safety for young people at work.

469. In addition, a Young Workers' Toolkit is being developed for distribution through education centres, employment and workplace advisory services and websites. The toolkit will provide all the information that young people need about employment and workplace relations issues.

ILO Convention

470. The Australian Government is currently consulting with the social partners and the State and Territory governments concerning the possibility of ratifying ILO Convention 138, the Minimum Age Convention, 1973.

State/territory responses

New South Wales

Children in the workplace

471. In NSW, the *Children and Young Persons (Care and Protection) Act 1998* regulates child employment in prescribed categories of work, including entertainment, performance and door-to-door sales for children under the age of 15. The government has recently announced its intention to strengthen these provisions by raising this age to 16 for modelling. The *Industrial Relations (Child Employment) Act 2006* provides additional protections for children and young people under the age of 18.

School leaving age

472. In 2008, NSW announced its intention to raise its school leaving age.

473. NSW also notes that the statement in the common core document that legislation in all States and Territories 'prohibits employment of children under the school leaving age during school hours' is not strictly correct. There are no specific laws in NSW prohibiting child employment during school hours. Under the *Education Act 1990* a parent can be prosecuted if a child was employed during school hours and therefore failing to attend school, but there is no provision to prosecute the employer.

Queensland

474. Queensland's industrial relations legislation protects employees' rights to enjoy just and favourable conditions of work. The *Industrial Relations Act 1999* (IR Act) makes provision for the types of employment entitlements listed under article 7 of the Covenant. For instance the principal object of IR Act is to provide a framework for industrial relations that supports economic prosperity and social justice, this is to be achieved in a number of ways including by:

- (a) Providing for rights and responsibilities that ensure economic advancement and social justice for all employees and employers; and
- (b) Providing for an effective and efficient economy, with strong economic growth, high employment, employment security, improved living standards, low inflation and national and international competitiveness; and
- (c) Preventing and eliminating discrimination in employment; and
- (d) Ensuring equal remuneration for men and women employees for work of equal or comparable value; and
- (e) Helping balance work and family life.

475. Section 8A - Minimum wage of the IR Act ensures employees' entitlement to a minimum wage. Under this section an employee is entitled to a wage that is not less than the Queensland minimum wage declared by the full bench's general ruling under section 287. Under section 287

the full bench may make general rulings about a Queensland minimum wage for all employees. The full bench must ensure a general ruling about a Queensland minimum wage for all employees is made at least once each calendar year.

476. Under Chapter 2 Part 5 of the IR, the Queensland Industrial Relations Commission may make any order it considers appropriate to ensure employees covered by the order receive equal remuneration for work of equal or comparable value. Equal remuneration for work of equal or comparable value means equal remuneration for men and women employees for work of equal or comparable value.

477. Chapter 2 of the IR Act concerns general employment conditions, which protect employees' entitlements to rest, leisure and reasonable limitation of working hours and periodic holidays with pay as well as remuneration for public holidays. Relevant sections of the IR Act include:

- (a) Section 9 and 9A Working time;
- (b) Section 10 sick leave;
- (c) Section 11 annual leave;
- (d) Section 15 public holidays;
- (e) Part 2 family leave; and
- (f) Part 3 long service leave.

478. The objective of Queensland's Workplace Health and Safety Act 1995 is to prevent a person's death, injury or illness being caused by a workplace, by a relevant workplace area, by work activities, or by plant or substances for use at a workplace. This is achieved by preventing or minimising a person's exposure to the risk of death, injury or illness caused by a workplace, by a relevant workplace area, by work activities, or by plant or substances for use at a workplace.

479. The Act establishes a framework for preventing or minimising exposure to risk which includes by:

- (a) Imposing workplace health and safety obligations on certain persons who may affect the health and safety of others by their acts or omissions; and
- (b) Establishing benchmarks for industry through the making of regulations and codes of practice; and
- (c) Establishing a workplace health and safety board:
 - (i) To allow industry to participate in developing strategies for improving workplace health and safety; and
 - (ii) To promote community awareness about workplace health and safety; and

(d) Providing for the development of accredited training programmes for delivery and assessment of competence;

(e) Providing for the election of workplace health and safety representatives, and the establishment of workplace health and safety committees, to foster cooperation between employers, principal contractors, and workers; and

(f) Providing for the appointment of:

(i) Workplace health and safety officers to assist employers and principal contractors to manage workplace health and safety; and

(ii) Accredited providers to assist industry in managing particular risks; and

(iii) Inspectors to monitor and enforce compliance with this Act; and

(iv) Authorized representatives to help workers with workplace health and safety issues; and

(g) Providing for the collection of a workplace health and safety contribution and for the collection of statistical data for the purposes of workplace health and safety regulation and related education and prevention services.

480. In addition to the above protections, which apply to all workers, specific protections have been developed for children working in Queensland. The Child Employment Act 2006 was introduced to safeguard children working in Queensland.

481. This is to be achieved by:

(a) Ensuring that work does not interfere with children's schooling; and

(b) Preventing children performing work that may be harmful to their health or safety or physical, mental, moral or social development.

482. In Queensland, the Workplace Health and Safety Act 1995 (the Act) provides for the protection of all people at workplaces, including children and young people. The Act covers children who are working as well as children who are in a workplace for any other reason. When children are employed, they have the same obligations as any other workers under the Act, which is to ensure that they do not wilfully place themselves or others at risk.

483. Workplace Health and Safety Queensland has developed the Children and Young Workers Code of Practice 2006 (the code). The code provides practical advice about ways to manage health and safety at workplaces where children and young workers are likely to be.

484. The code identifies a number of hazards that can pose particular risks to young workers when compared with more experienced workers, including manual tasks, noise, chemicals, workplace violence, workplace harassment, industrial equipment and machinery.

485. Under the code, young workers are defined as people who are under 18 years of age, and include the following:

- (a) Children leaving school and entering full-time employment for the first time, including apprentices and trainees;
- (b) Children engaged in part-time or casual employment outside school hours;
- (c) Children who work but are not paid for the work done, such as unpaid work undertaken for a family business;
- (d) Work experience students and vocational education and training students who are still involved in the education system.

486. The code complements the Child Employment Act 2006 and Child Employment Regulation 2006.

Tasmania

487. *Legislation:* Workplace Health and safety Act 1995.

488. *Education:* While there is no minimum age of employment, Tasmanian children are guaranteed a free education, and are required by law to remain in full-time schooling until they are 16 years of age.

Victoria

489. The Parliament of Victoria has enacted the Child Employment Act 2003. The Act:

- (a) Provides a system of permits to allow the employment of children under the age of 15;
- (b) Allows children under the age of 15 to work in family businesses without a permit;
- (c) Sets out general conditions of employment for children under the age of 15;
- (d) Prohibits the employment of children under the age of 15 in certain kinds of work;
- (e) Sets out offences;
- (f) Provides for the appointment of child employment officers and powers of inspection of workplaces where children are employed to ensure compliance with the Act; and
- (g) Provides for the making of a mandatory code of practice for the employment of children in the entertainment industry (the Mandatory Code for the Employment of Children in the Entertainment Industry came into operation in 2004).

490. The Act further limits children to performing “light work” defined as work that is not likely to be harmful to a child’s health or safety, moral or material welfare or development and is not such as to prejudice the child’s attendance at school or their capacity to benefit from

instruction. Examples of light work include casual work in or around a private home, clerical work, retail, gardening, entertainment and delivering newspapers and pamphlets. The Act specifically prohibits employment on building sites, employment on a fishing vessel (except those operating only on in-land waters) and employment in door-to-door selling.

491. A child is considered to be employed if they take part or assist in any business, trade or occupation carried on for profit, even if they receive no payment (in cash or kind). A child is considered not to be in employment if they are participating in a sporting activity or a charity/religious event. The Occupational Health and Safety Act 2004, which applies across all industries, will also apply to any child employed under the Child Employment Act 2003.

Western Australia

Department for Child Protection

492. In partnership with Department of Consumer and Employment Protection (DoCEP), the Department for Child Protection (DCP) is responsible for administering Part 7 of the Children and Community Services Act 2004 (the Act), which outlines employment of children laws in the State.

493. The relevant section of the Act begins with a prohibition on employing children aged under 15 (s.190(1)) and then makes some limited exceptions for work in family businesses, entertainment and advertising, delivery of printed material, retail and restaurants, and school work experience programmes.

494. A number of safeguards apply, for example, delivery, retail and restaurant work may only be carried out during specified hours and require written parental permission. In addition, section 192 prohibits the employment of children to perform in an indecent, obscene or pornographic manner for an entertainment or exhibition.

495. Penalties and enforcement provisions apply:

(a) For employing a child under 15 years except as permitted by the Act the maximum penalty is a fine of \$24,000; and the same penalty may apply to a parent who permits his or her child to be so employed;

(b) Employing a child to perform in an indecent manner carries a maximum penalty of ten years imprisonment; and again, the same penalty may apply to a parent who permits their child to so perform;

(c) Section 193 gives the CEO of the Department for Child Protection the power to prohibit or limit the employment of a child; and the maximum penalty for contravening a notice issued by the CEO under this provision is a fine of \$36,000 and imprisonment for three years.

496. In respect to employment of a child, it is an offence for an employer or a parent to give false information about: the age of the child; any notice issued under s.193; whether the employment is permitted under the Act as a school-organised work experience programme (s.194).

497. Section 195 gives authorized officers of the DCP and DOCEP industrial inspectors powers of inspection to enforce the provisions of the Act on employment of children; and section 196 allows for breaches to be prosecuted under the Industrial Relations Act 1999.

498. The DCP considers that the Act strikes the right balance between protecting children from the risks involved with paid employment while permitting employment in limited circumstances and subject to safeguards.

Department of Consumer and Employment Protection

499. The WA Occupational Safety and Health Act 1984 imposes on employers in every industry a duty of care to provide a safe working environment for all employees. Aged based work restrictions apply in certain industries. For example, a high risk work licence cannot be issued to persons under 18 years of age.

500. Age specific OH&S legislation exists in the mining industry. Under the Mines Safety and Inspection Act 1994 a duty of care is owed to each employee as an individual. A minimum age is prescribed in the Mines Safety and Inspection Regulations 1995 for some categories of employees.

501. An underground employee should be above 18 years of age unless he or she is an apprentice or cadet who is working underground in order to gain required experience in the course of training for a profession or trade.

502. A person under the age of 16 years must not be employed in a mine if, as a direct consequence of the mining operation, the young person may receive doses of radiation in excess of dose limits set out under the radiation safety provisions of the Regulations.

Question 21. Please provide further information on whether the State party intends to proceed with the Draft Children with Intellectual Disabilities (Regulation of Sterilisations Bill 2006).

503. The system for regulation of sterilisation of children with intellectual disabilities was placed on the agenda of the Standing Committee of Attorneys-General (SCAG) in 1997 in response to the Human Rights and Equal Opportunity Commission's *Report on Sterilisation of Children with an Intellectual Disability*. In August 2003, SCAG considered that a nationally consistent approach to the authorisation procedures required for the lawful sterilisation of minors was appropriate. A SCAG Working Group was created to proceed with the task of developing a nationally consistent approach. The draft Model Sterilisation Bill was released for consultation in September 2006. It did not represent a settled policy position. It was intended to promote discussion on appropriate models for the regulation of sterilisation procedures.

504. In response to the comments received, the evidence and information relating to this issue since the 1997 Report was further reviewed. Medicare statistics and records of the Family Court of Australia and relevant State and Territory tribunals indicated that sterilisations of children with an intellectual disability had declined since HREOC's 1997 report to very low numbers. Evidence from the Australian Guardianship and Administrative Council and jurisdictional research also indicated that alternatives to surgical procedures to manage the menstruation and

contraceptive needs of women are increasingly available and seem to be successful in the most part. These included, for example, a range of non-surgical therapies including Depo-Provera, hormone replacement therapy, non-steroidal anti-inflammatory drugs and oral contraceptives, as well as information and advice about menstrual and contraception management.

505. Existing processes in place in each jurisdiction to authorise sterilisation procedures appear to be working adequately in light of such improvements in treatment options and wider awareness. Doctors and hospitals have gained a better appreciation and understanding of their legal obligations as a result of actions taken to provide them with relevant information including, for example, amendment of the Medical Benefits Scheme to advise doctors of their obligation to obtain the approval of relevant courts or tribunals before performing sterilisation procedures. Court, tribunals or bodies with power to make orders concerning the sterilisation of minors with an intellectual disability are required to be satisfied that all appropriate alternatives to sterilisation have been fully explored before such an order is made.

506. In light of this, SCAG has resolved that there would be limited benefit in developing model legislation. Sterilisation was removed from the SCAG agenda in March 2008. The Commonwealth government supported this decision.

507. However, SCAG has agreed that work will continue on promoting awareness of non-surgical alternatives to manage the menstruation and contraceptive needs of minors with a decision-making disability. Further, all Australian jurisdictions will review current arrangements to ensure that all tribunals or bodies with the power to make orders are satisfied that all appropriate alternatives to sterilisation have been fully explored before an order is made.

F. Article 11. The right to an adequate standard of living

Question 22. Please provide information on (a) the extent of homelessness and malnutrition among asylum-seekers; and (b) the eligibility of asylum-seekers who have initiated an appeal against the primary decision of their asylum application to apply for assistance under the Asylum-Seeker Assistance Scheme.

508. There is no national data specifically identifying homelessness and malnutrition among asylum-seekers.

509. Broader data is available from homelessness services such as The Supported Accommodation Assistance Program (SAAP), in relation to assistance provided to people of culturally and linguistically diverse backgrounds (CaLD), which would include support provided to asylum-seekers. In addition, the Newly Arrived Youth Support Service (NAYSS) initiative provides a multi function service to newly arrived young people aged 12 to 21 years from culturally and linguistically diverse backgrounds, who are homeless or at risk of homelessness, and their families. These initiatives are elaborated below.

Supported Accommodation Assistance Program (SAAP)

510. SAAP provides transitional supported accommodation and related support services to help homeless people and funds non-government, community and/or local government agencies.

511. These agencies provide accommodation, support and referrals, offer food vouchers, provide soup kitchens and other support services to those who are homeless or at risk of homelessness.

512. The Supported Accommodation Assistance (SAA) Act states that “services should be provided in a way that respects client’s cultural backgrounds and beliefs”. The Act acknowledges the International Covenants on Economic, Social and Cultural Rights.

513. The 2006-2007 data (SAAP National Data Collection annual report 2006-2007 Australia) reports that 10% of SAAP clients were born overseas from predominantly non-English speaking backgrounds and 3.9% were born overseas from predominantly English speaking backgrounds. Some of these clients may be asylum-seekers.

514. Those from CaLD backgrounds, including asylum-seekers face many disadvantages that can make accessing support services difficult, such as; few skills in using the English language, loss of family support, unfamiliarity with the support system in Australia or a lack of information in their own language about support services. Many of the strategies engaged by SAAP services aimed at assisting CaLD clients would aid in mitigating the risks of asylum- seekers who are homeless. These include:

(a) Provision of information in linguistically appropriate formats through the use of interpreters and translators;

(b) Service providers are aware of which cultural and language groups are represented within the local community, and have some understanding of the cultural issues that arise when working with those groups;

(c) That services are promoted to all cultural groups within a community.

Newly Arrived Youth Support Service (NAYSS)

515. The Wealth of all Nations, Identification of strategies to assist refugee young people in transition to independence report (2002) identified the risk of homelessness for young refugees is at least six to 10 times greater than for other young people of school age, undermining chances of long-term independence.

516. (NAYSS) initiative provides a multi function service to newly arrived young people aged 12 to 21 years from culturally and linguistically diverse backgrounds, who are homeless or at risk of homelessness, and their families.

517. To be eligible for support participants must:

(a) Have arrived in Australia in the previous five years;

(b) Have visa entry, although there is a focus on young people entering Australia on humanitarian visas and family visas; and

(c) Be aged 12 to 21 years and be homeless or at risk of homelessness.

518. Over the 2006-2007 period 716 young people were seen by NAYSS providers, data compiled so far relating to 2007-2008 period indicates that over 1000 young people have been assisted by NAYSS providers.

519. The NAYSS initiative allows organizations to assist newly arrived young people by providing services relevant to them at all stages along the continuum of assistance from early intervention to transitional support, and increase the participation of newly arrived young people in the economic and social life of the Australian community.

520. NAYSS providers use a variety of strategies to help newly arrived young people improve their level of engagement with family, work, education, training and the community such as counselling, group work, mediation and practical support in culturally and contextually appropriate ways.

Association for Services to Torture and Trauma Survivors (ASeTTS) project

521. The ASeTTS project (commenced July 2007) was undertaken through the National Homelessness Strategy to assess the extent, nature and impact of homelessness among young people (16-25 years) who have resettled in Australia through the humanitarian programme and been in the country for less than five years.

522. This project found:

- (a) Most of these people were sleeping on the couch or extra bed of an acquaintance;
- (b) Only a few had been on the streets and only for the short term;
- (c) Steady increase in the numbers of newly arrived youth in crisis accommodation;
- (d) Homelessness was caused by family conflict, relationship difficulties, shortage of Housing, financial constraints, unavailability of other resources.

523. The project recommended further investment in specifically designed orientation programmes, more appropriate publications, training resources, workshops, continued funding of NAYSS and further research in this area.

State/Territory initiatives

524. States and territories also provide assistance to asylum-seekers. In the Australian Capital Territory, for example, the success of the Transitional Housing Program (THP) led to the development in 2007/08 of a refugee transitional housing programme. Using similar procedures as the THP, the refugee programme utilises Housing ACT properties that are temporarily vacant to provide short term accommodation to refugee families while they wait for long term housing options. The tenancies are managed by Centacare who provide tenancy related support to the families and Companion House who provides referral, outreach and other supports to the families. Companion House is a community organization that assists in the rehabilitation and

resettlement of refugees, particularly refugees who are survivors of torture and trauma. They have expertise in assisting refugees to adjust to a new country, deal with trauma issues and in general work towards obtaining and sustaining accommodation. Companion House will continue to support families once they exit the programme and move in to longer term housing.

Asylum-Seeker Assistance (ASA) Scheme

525. The ASA Scheme provides financial assistance equivalent to 89% of the Centrelink benefit rate to asylum-seekers in the community who have applied for protection visas. This scheme covers their basic needs if they are experiencing financial hardship and there are delays in processing their applications, or if they qualify for support on other grounds (e.g. they are unable to work due to illness, disability or exposure to torture/trauma - for more details, see para. 534). The benefits also include access to general health care, pharmaceutical assistance, torture and trauma counselling services and bereavement assistance (also see Q22 b). In the 2006-07 programme year, 1780 protection visa applicants were assisted by the ASA Scheme at a total cost of \$4.64 million.

(b) The eligibility of asylum-seekers who have initiated an appeal against the primary decision of their asylum application to apply for assistance under the Asylum-Seeker Assistance Scheme.

526. Protection visa applicants seeking review at the Refugee Review Tribunal may be eligible for assistance under the Asylum-seeker Assistance (ASA) Scheme where they are in financial hardship and meet an exemption criterion. They must not be in detention. The exemption criteria apply to:

- (a) Unaccompanied minors;
- (b) Elderly persons;
- (c) Families with children under 18 years;
- (d) A full time carer;
- (e) A pregnant woman whose medical or social circumstances are such that her health or the baby's health are at serious risk;
- (f) A person unable to work as a result of a disability or illness;
- (g) A person unable to work as a result of the effects of torture and/or trauma;
- (h) A person who is the spouse of or sponsored fiancé(e) of a permanent resident, whose combined income is lower than ASA payments; and
- (i) A person whose financial hardship has resulted from a change of circumstances beyond their control since they last arrived in Australia.

Question 23. Please provide further information on the programme to support indigenous households at risk of eviction to maintain their tenancies, and on the Joint Planning Committee (common core document, para. 492), as well as on the results of the programme.

527. The Australian Government continues to support Indigenous Community Housing Organisations (ICHOs) in Victoria to ensure effective governance and tenancy management arrangements. Funding to all ICHOs under the Australian Community Housing and Infrastructure (CHIP) program has been contingent upon a current and relevant business plan detailing tenancy management strategies including tenancy agreements, rent setting and collection policy and arrears and waitlist management. The Commonwealth and Victorian Governments are working towards a strategy that will ensure that all community housing meets common standards, including in relation to tenancy management, regardless of being mainstream or Indigenous specific housing.

528. The Victorian Joint Planning Committee (JPC) acts as the principal source of advice on policies and strategies to improve housing and essential services outcomes for Indigenous people in Victoria. The JPC comprises representatives from the Victorian Indigenous community, and the Commonwealth and Victorian State Governments. The JPC has facilitated a number of projects on behalf of the Indigenous Community Housing Organisations including a property condition audit which was undertaken in 2007-2008. As a result of the audit the Commonwealth Government has provided \$7.47 million in Community Housing and Infrastructure Program (CHIP) funding (in 2007-08) to ICHOs in Victoria for work to bring dwellings to an acceptable public housing standard.

Australian Government update to the common core document

529. The common core document - Australia's fourth periodic report - includes a section on "Access to adequate and affordable housing for Indigenous peoples". Paragraph 492 states:

Headway continues to be made in improving the standard of housing and infrastructure in Indigenous communities.

530. The Australian Government can report that it is making significant headway in addressing housing need amongst Indigenous Australians. The provision of affordable and appropriate housing and infrastructure improvements are fundamental contributors to closing the gap on Indigenous disadvantage in the areas of health, education and employment. Closing the gap on life outcomes between Indigenous and non-Indigenous Australians is a national priority.

531. The Australian Government is committed to a new National Affordable Housing Agreement with the States and Territories which builds on previous agreements and provides an opportunity to consider methods for improving Indigenous people's access to housing in urban, regional and remote areas. The Council of Australian Governments (COAG) agreed, on the 29 November, to a significant package of investment for housing: a total commitment of nearly \$10 billion in the National Affordable Housing Agreement (NAHA) and its associated NPs. This includes additional funding towards:

- (a) Homelessness - \$800 million over five years;

(b) Remote Indigenous Housing - \$1.94 billion over 10 years (\$834.6 million over five years); and

(c) Social Housing - \$400 million over two years.

532. These agreements commit governments to pursue reforms in social housing, homelessness and Indigenous housing. The package will provide relief for many Australians facing social housing stress or homelessness.

533. All States and the Northern Territory have agreed to a new 10-year National Partnership on remote Indigenous housing, in which the Commonwealth will provide an additional \$1.94 billion over 10 years (\$834.6 million over five years) to address significant overcrowding, homelessness, poor housing conditions and the severe housing shortage in remote Indigenous communities. Improving housing conditions will provide the foundation for lasting improvements in health, education and employment and make a major contribution towards closing the gap in Indigenous disadvantage. This additional funding lays the foundation for major reforms to Indigenous housing in remote Australia. It brings the total investment in remote Indigenous housing to an unprecedented \$5.5 billion over ten years.

534. The National Partnership will commence on 1 January 2009 with implementation plans to be finalised by 1 April 2009.

535. Over ten years the Agreement will deliver:

(a) Construction of up to 4,200 new houses;

(b) Significant upgrades and repairs of around 4,800 existing houses which are currently in an appalling state of disrepair or are uninhabitable;

(c) Improved tenancy management services to ensure that rental houses are well maintained, rent is collected and support services are in place;

(d) Economic development opportunities through increased local training and employment opportunities in construction and housing management, providing up to 2,000 new jobs; and

(e) Access to affordable accommodation options in regional centres to support employment, education, training opportunities and access to support services in regional areas of high employment.

536. The National Partnership Agreement will clarify the responsibilities of the Commonwealth, the States and the Northern Territory. In the past the arrangements have been complex and inefficient. The States will be the main deliverer of housing in remote Indigenous communities, providing standardised tenancy management and support consistent with public housing tenancy management. The States and the Commonwealth will work towards clearer roles and responsibilities and funding with respect to municipal services and ongoing maintenance of infrastructure and essential services in remote areas.

State/territory responses

Australian Capital Territory

537. The ACT funds a range of services for Aboriginal and Torres Strait Islander people across a number of programme areas, including housing and supported accommodation. Funds are provided to Winnunga Nimmityjah Aboriginal Health Service (WNAHS), and to Gugan Gulwan, the Indigenous youth service, to provide housing information, advocacy and support to assist clients to access and maintain housing.

538. The Indigenous Supported Accommodation Service (ISAS) was launched in May 2006, to provide crisis and transitional supported accommodation to Aboriginal and Torres Strait Islander families who are homeless or at risk of homelessness. Inanna, a supported accommodation and outreach service, has consulted with the service users regarding the appropriateness of a mainstream service providing service for Indigenous families and identified that the majority of families seeking assistance preferred a mainstream service as they did not want their local community and family knowing all of the issues relating to their homelessness. As such, DHCS will be working with Inanna to continue to operate this service into the future.

539. The Indigenous Boarding House Network was established to respond to demand for Indigenous longer term accommodation, especially for people accessing Canberra for medical or other services. The Boarding House Network offers flexible responses to cater for diverse target groups.

Agreement for the provision of housing for Indigenous people

540. The ACT and Australian Governments signed the Indigenous specific Bilateral Agreement in November 2005 which sets out the future directions and strategies for meeting the housing needs of Aboriginal and Torres Strait Islander people in the ACT.

541. In recognition that public housing is the major response to Indigenous housing need, in 2006-07 the ACT Government allocated \$1.5million per annum for three years for a public housing capital purchase programme to respond to Indigenous housing need.

542. The ACT has received funding from the Australian Government over the last three years, to expand indigenous housing and improve housing outcomes for indigenous families in the Territory. The amount received over 2006-07 and 2007-08 was \$0.965m GST inclusive. The Australian Government has agreed to provide an additional \$0.219m for 2008-09. These funds are provided under the Australian Remote Indigenous Accommodation Program (formerly Community Housing and Infrastructure Program) and the Healthy Indigenous Housing Initiative.

543. The funding has been used in accordance with the Indigenous Housing and Infrastructure Agreement 2005-08 to enable increased employment of indigenous workers in Housing ACT to improve communication and liaison between the indigenous community, particularly those housed in public housing or on the Applicant List waiting for public housing

and the public housing provider in the Territory, Housing ACT. With improved communication it is expected that housing more responsive to the needs and demands of the community will occur and this will reduce exclusion and isolation for the indigenous community. This recurrent funding was provided under the Healthy Indigenous Housing Initiative.

544. Most of the funding has been used to provide additional housing for indigenous families in the ACT, including accommodation that is more aligned to the cultural and family needs of indigenous families either through building housing that better meets their needs or extending and upgrading properties in which indigenous families currently reside so that they do not lose connection with the community of which they are currently a part. In many instances, this involves extending their property to provide additional bedrooms to reduce overcrowding or to better integrate the outdoor areas and indoor living areas.

545. In 2007-08 Billabong Aboriginal Corporation (BAC) received ACT Government funding of \$233,900, comprising community-housing and Office for Children Youth and Family Support funding. BAC manages 16 properties funded through the community-housing programme. In addition, BAC owns 7 properties that are utilized for affordable rental housing.

546. In addition, families receiving support to improve the appearance and safety of their homes were able to increase their capacity to maintain the external areas of their home environment. In some cases, the families assisted were at risk of eviction from public housing and were in need of practical support with home maintenance.

Tasmania

547. Tasmania has a long-established programme targeting the provision of housing to Aboriginal people; namely Aboriginal Housing Services Tasmania (AHST).

548. Tasmania is also participating in discussion with the Council of Australian Governments (COAG) on matters to address Indigenous Disadvantage through the provision of housing. There is a currently particular focus on reducing homelessness. These discussions will culminate in the development of a Reform Agenda, which will be adopted by all jurisdictions to address Indigenous disadvantage across all areas.

Question 24. Please outline the measures taken toward the development of a national housing strategy. In this regard, please explain the extent to which attention is paid to remedying the situation of the most disadvantaged and marginalised groups, the efforts undertaken or envisaged to promote their participation in the development of the strategy, as well as the efforts undertaken or envisaged to address the structural root causes of the problems now faced.

549. The Australian Government is negotiating a new National Affordable Housing Agreement with the States and Territories, to commence in 2009. The new Agreement will encompass

housing assistance provided at all levels of government - including all programmes funded by State and Territory Governments through the Commonwealth-State Housing Agreement and the Supported Accommodation Assistance Program.

550. It will improve the ability of all governments to deliver affordable housing for low and moderate income earners - and will at least maintain the funding levels of the programmes it is replacing.

551. The roles and responsibilities of each level of government will be clearer and there will be greater accountability for outcomes from each level of government. It will clearly set out the responsibilities of each level of Government.

552. The simplification of the funding process is expected to improve the coordination of housing and support services particularly for residents of social housing and those most disadvantaged groups experiencing housing stress.

Homelessness

553. According to the Australian Bureau of Statistics, on any given night, 105,000 Australians are homeless. Almost half of these homeless Australians are under the age of 25, and 12,000 are children under 12 years of age.

554. Addressing homelessness is a major priority for the Australian Government. The Australian Government has committed \$150 million in funding for the A Place to Call Home program. This programme will provide 600 new homes across Australia for individuals and families experiencing homelessness.

555. States and Territories have developed plans for the A Place to Call Home program. For example the Victorian Government will build a supported accommodation facility in the Melbourne CBD providing affordable housing for 120 people. They will also acquire an additional 68 dwellings in regional and outer metropolitan areas of Victoria. The Tasmanian Government will build a new supported accommodation facility, based on the Common Ground housing model in Hobart, and the South Australian Government will construct a Foyer model facility to house 40 young homeless people in Adelaide, and a 40-bed Common Ground housing facility in Port Augusta. The first families are already moving into new A Place to Call Home properties in New South Wales.

556. A Green Paper on Homelessness: Which Way Home? A New Approach to Homelessness, was released in May 2008 to promote discussion about ways to reduce homelessness.

557. A public consultation process on the Green Paper was held during May and June 2008. A total of 13 public forums were held across Australia. Almost 600 written submissions were received. This information is being used to help develop a White Paper.

558. The Government is developing the White Paper to set the agenda for tackling homelessness to 2020. The White Paper which will include a comprehensive, national action plan to reduce the number of Australians who experience homelessness is expected to be released before the end of December 2008.

Overview of new housing specific measures

Improving housing affordability is a major priority for the Australian Government

559. The Australian Government committed \$2.2 billion worth of new investment to address housing affordability in the 2008-09 Budget and has subsequently announced an additional \$1.5 billion through the First Home Owners Boost.

560. Measures now being implemented include:

(a) A \$512 million Housing Affordability Fund to lower the cost of building new homes by tackling the critical supply side issues around the length of time taken to bring new houses to sale and the impact of infrastructure charges. The Fund will give priority to proposals that improve the supply of new affordable housing, especially homes that help first time buyers enter the market;

(b) A National Rental Affordability Scheme that will invest \$623 million in the next four years to help build 50,000 new affordable rental dwellings. Rent for these properties will be set at 20 per cent below the market rate for eligible tenants. If demand for rental properties is still strong, a further 50,000 properties will be built from 2012 onwards;

(c) Increasing the supply of land for housing by releasing surplus Commonwealth land for residential and community development;

(d) A National Housing Supply Council to improve the evidence base for housing policy development by providing research, forecasts and advice to government on issues such as the adequacy of housing and land supply to meet future housing needs;

(e) Extra resources for financial counselling and other measures to ensure a strong and well regulated mortgage sector;

(f) The First Home Owners Boost (announced on 14 October 2008), which will enable first home buyers who purchase:

(i) A newly constructed home to receive \$21,000 - an increase of \$14,000 on the existing First Home Owners Grant; or

(ii) An existing home to receive \$14,000 - an increase of \$7,000.

561. The Government is also investing \$1.2 billion in new First Home Saver Accounts to help aspiring first home buyers save a bigger deposit through low tax savings accounts, which attract a Government contribution of up to \$850 per year.

Public and community housing

562. The Government recognises the important role of public and community housing. Public and community housing provides safe, secure and affordable housing for low income and disadvantaged Australians.

563. Reform in social housing will improve the social and economic opportunities of tenants and provide for the long term sustainability of the social housing sector.

564. The National Affordable Housing Agreement (NAHA) will include performance measures applying to the delivery of high quality and sustainable public and community housing.

565. The Government is supportive of an expanded role for not for profit community housing providers. The Government expects that the National Rental Affordability Scheme will assist the community housing sector to grow, both as tenancy managers and owners of new stock. Under the National Rental Affordability Scheme Capacity Building Strategy, assistance will be available for not for profit affordable housing providers to help develop their capacity through grants and projects that target identified needs within the sector. The Government has committed \$1.5 million over two years to assist affordable housing providers become involved in the National Rental Affordability Scheme.

566. The Government supports opportunities for not for profit housing providers to grow in addition to the National Rental Affordability Scheme. As these opportunities arise, the Government intends to work closely with not for profit housing providers.

Housing Affordability Fund

567. The Australian Government is investing \$512 million in a Housing Affordability Fund to lower the cost of building new homes. This new initiative is aimed at addressing two significant barriers which will increase the supply of affordable housing:

(a) The 'holding' costs incurred by developers as a result of long planning and approval times, such as interest paid to banks while waiting on development decisions by councils;

(b) Infrastructure costs, such as the laying of water pipes, sewerage, transport, and the creation of parks.

568. Money will be targeted to areas with high demand for new housing, and can be used for both green-field and in-fill developments.

569. An initial \$30 million from the Fund is being used to roll out electronic development assessment systems and online tracking services to reduce red tape and streamline planning approval processes.

570. Grants, primarily to local governments, will be made through a competitive selection process. Applications will be assessed against transparent, needs-based selection criteria, and applicants will have to demonstrate how cost savings will be passed on to new home buyers.

571. The Government is committed to working closely with all levels of government, particularly local councils, to reform infrastructure and planning requirements, to make sure that savings are passed on to home buyers.

National Rental Affordability Scheme

572. The Government is very concerned about increasing rents in many parts of Australia. Rents are increasing because there are not enough rental homes available, with vacancy rates at or below 2 per cent in most capital cities.

573. The Government has recognised the need to build more affordable rental properties and has committed \$623 million over four years to the National Rental Affordability Scheme. The Scheme will provide institutional investors with incentives to build more affordable rental accommodation.

574. The Australian Government will provide annual tax credits of \$6,000 on 50,000 new rental properties to be offered to low and moderate income earners. State and Territory Governments have agreed to contribute a further \$2,000 per property, either as cash or in kind each year.

575. Rent for these properties will be set at 20 per cent below market rates, and tenants will retain their eligibility for Commonwealth Rent Assistance - making it even more affordable for individuals and families. If demand for rental properties is still strong, a further 50,000 properties will be built from 2012 onwards.

First Home Saver Accounts

576. The Government recognises that one of the biggest barriers to becoming a first home owner is being able to save a suitable deposit. To address this issue, the Australian Government is investing \$1.2 billion to establish new, low tax First Home Saver Accounts to help aspiring homebuyers save for their first home.

577. The new accounts, which became available in October 2008, will provide a simple, tax effective way for Australians to save a deposit for their first home through a combination of a Government contribution and low taxes.

578. The Government will provide a 17 per cent contribution on the first \$5,000 of individual contributions made each year. This means that anyone who contributes \$5,000 to their account will receive an \$850 deposit from the Government.

579. Contributions will not be subject to tax when made into an account and interest on the accounts will be taxed at 15 per cent rather than the account holder's marginal tax rate.

580. The new accounts will also help the Government's fight against inflation by encouraging greater private saving. By 2012, it is anticipated there will be more than \$6.5 billion saved in these new accounts.

First home owners boost

581. Under the changes announced on 14 October 2008, first home buyers who purchase:

(a) A newly constructed home will receive \$21,000 - an increase of \$14,000 on the existing Grant; or

(b) An existing home will receive \$14,000 - an increase of \$7,000.

582. These increased payments became effective immediately and are time-limited to contracts entered into between 14 October 2008 and 30 June 2009.

583. The new measures are expected to increase confidence among first home buyers with many likely to bring forward planned purchases.

Assistance/financial counselling for existing homeowners

584. The Australian Government is investing an additional \$20 million in increased financial counselling and support services for people experiencing financial stress.

585. Funding for the Commonwealth Financial Counselling program, a free financial counselling service, will be increased by \$10 million over four years, doubling the size of the programme. This will increase the capacity of existing counsellors and establish new services in high need areas, helping more families who are facing financial stress.

586. In addition, \$10 million over four years will be provided to develop and distribute easy to understand and practical financial management information on issues and products such as mortgages, credit cards and hire purchase. These products will be designed to assist people in, or at risk of, financial stress.

Land release

587. The Australian Government is committed to releasing surplus Commonwealth land for new housing, job creation and community development, where suitable. As part of this commitment, a new land release policy will require all Government agencies to show why surplus land should not be released to assist local communities. The Government is currently finalising the new policy.

Pension review

588. The Australian Government has committed to an investigation into measures which will strengthen the financial security of seniors, carers and people with disability, including a review of the Age Pension, Carer Payment and Disability Support Pension, as part of its inquiry into Australia's Future Tax System. The Pension Review will investigate the appropriate levels of income support and allowances; the frequency of payments; and the structure and payment of concessions or other entitlements.

589. The Pension Review will be completed by the end of February 2009. The report on the Review will inform the broader inquiry into Australia's Future Tax System, which will conclude by the end of 2009.

State/territory responses

ACT Affordable Housing Action Plan

590. The ACT Government's Affordable Housing Action Plan contains strategies to assist Canberrans at all points on the accommodation spectrum, from home-buyers and private renters to those in public and community housing.

591. Since the release of the plan, the government has implemented all 62 of the initiatives contained in the original plan. These include: release of land; stamp duty concessions; and a capital injection of \$40 million capital and a loan facility of \$50 million to boost community housing.

Question 25. Please provide detailed and updated information, including disaggregated data, on the nutritional status of indigenous people, homeless people, single-parent families, children, unemployed people, low-income earners, older persons, persons with disabilities, persons living in rural areas, refugees and asylum-seekers, and their ability to access adequate, affordable and appropriate food and water.

Population data

592. There is limited national level data on the nutrient status of Australians and it is mostly inferred from surveys of self-reported dietary intakes. Detailed information on food and nutrient intakes of the Australian population for both children and adults was last collected in the 1995 National Nutrition Survey (NNS).¹⁸

593. Differences in nutrient intakes across Australia's geographical areas were reported in the 1995 NNS. For example, in rural and remote areas the cholesterol intake of men was higher than for those living in metropolitan areas (a median intake of 330mg/day compared with 290mg/day) but was relatively similar across all geographic areas for women (a median intake for all areas of 192mg/day). Men and women in rural areas recorded the lowest median intakes for the majority of vitamins and minerals.

594. In 1995, Australia's children and adolescents reported consuming a higher than recommended proportion of their total energy intake as fat and sugar and less than the recommended amounts of fruit and vegetables. Most children were consuming adequate amounts of the minerals iron, calcium and zinc compared with the most recent nutrient reference values.¹⁹

¹⁸ Australian Bureau of Statistics 1995 *National Nutrition Survey, Nutrient Intakes and Physical Measurements Australia 1995* cat. no.4805.0, Canberra.

¹⁹ Australian Institute of Health and Welfare 2007, *Profile of the nutritional status of children and adolescents*, AIHW cat. no. PHE 89, AIHW, Canberra.

However, older children aged 14-18 years were more likely to have inadequate intakes of calcium, with 77 per cent consuming less than the estimated average requirement of 1.05g/day.

595. While not directly comparable due to differences in methodology and other issues, results from the 2007 Australian National Children's Nutrition and Physical Activity Survey (Children's Survey) showed similar findings to those of the NNS for the consumption of fat and sugar for children aged 2-16 years.²⁰ The proportion of children who met the guidelines for fruit and vegetable intake declined with age. Children's intakes of the minerals calcium, sodium and magnesium were less likely to meet dietary recommendations, with children aged 14 to 16 years least likely to meet recommendations.

596. Estimates of the prevalence of Australian infants who are breastfed have been made in Australia's National Health Surveys. In 2001, Australia's breastfeeding initiation rate was 87 per cent. However only 32 per cent of infants aged up to six months had been fully breastfed. National breastfeeding recommendations are for infants to be exclusively breastfed up to six months of age and beyond if desired. The Government intends to survey a representative sample of mothers with infants under four years of age in 2009 in order to obtain baseline data on the prevalence and duration of breastfeeding for use to indicate population compliance with the recommendations. Data will also enable the evaluation of projects aimed at increasing breastfeeding rates.

Food supply

597. Access and availability to nutritious food and the sustainability of the Australian food supply continues to be a public health nutrition challenge for some subgroups of the Australian population.

598. To date, a national level survey of the cost and availability of quality fresh food, particularly vegetables and fruit, has not been conducted. However, healthy food surveys conducted by states/territories have found consistent differences in the cost of healthy food within and between the geographic and demographic areas of Australia. Rural and regional populations have been found to have less access to affordable healthy foods and most surveys show that access to affordable healthy foods in low socio-economic areas is not equitable.

599. In 2008, the Australian Competition and Consumer Commission (ACCC) concluded in its report of the inquiry into the competitiveness of retail prices for standard groceries, that a range of domestic and international factors have significantly contributed to food price inflation in recent times.²¹ Such factors include the duration of the drought, the extent of the decline in stored water levels, adverse weather conditions, the world commodities boom and increased

²⁰ The 2007 Australian National Children's Nutrition and Physical Activity Survey Main Findings, <<http://www.health.gov.au/nutritionmonitoring>>.

²¹ Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries, 2008, accessed 30 September 2008, <http://www.accc.gov.au/content/index.phtml?itemId=838251>.

international food commodities affecting the domestic food market. While supermarket retailing was seen to be working competitively, the effectiveness of price competition was limited by high barriers to entry into the grocery market. The Federal Government is presently considering the ACCC's findings.

600. Reports focussing on the Australian food supply have also highlighted the barriers to healthy eating experienced by vulnerable population groups in Australia including Aboriginal and Torres Strait Islander peoples. High prices and limited availability of healthy food combined with low income are cited as significant issues, especially for Indigenous communities in remote locations.

Federal Government initiatives

601. Federal Government initiatives that aim to improve the nutritional status of Australians focus on promoting healthy weight; improving nutrition for mothers, children and vulnerable groups (such as Aboriginal and Torres Strait Islander peoples); and on fostering the supply of healthy food. The Government also provides recommendations for healthy eating through evidence-based nutrition guidelines. The latest dietary guidelines were published by the National Health and Medical Research Council (NHMRC) in 2003 and are currently undergoing review to reflect the latest available evidence.²²

602. The Government has made several commitments that will have a significant impact in the fight against obesity. In 2008, Australian Health Ministers made obesity a National Health Priority Area to reflect the importance of this risk factor for chronic disease and to help achieve better health outcomes for consumers. The Preventative Health Taskforce will develop a National Preventative Health Strategy by June 2009, and will provide government with a strategy for tackling obesity, tobacco and alcohol and their impact on the burden of disease.

603. The Australia New Zealand Food Standards Code has recently been amended to require the addition of folic acid to all wheat flour for making bread. This standard will be enforceable from September 2009. Food Standards Australia New Zealand (FSANZ) is also developing a proposal to require the replacement of non-iodised salt with iodised salt for all salt used for making bread. If approved, FSANZ is seeking to have this standard also enforceable by September 2009 to align with the folic acid standard.

604. Federal Government initiatives to improve the nutritional status of mothers and children include: establishing a national toll free 24 hour phone line from 2008 to provide accessible one-to-one support for mothers who chose to breastfeed; developing educational resources on breastfeeding for health professionals such as general practitioners, midwives, maternal and child health nurses, practice nurses and breastfeeding counsellors; and developing dietary guidelines

²² National Health and Medical Research Council 2003, *Food for health Dietary Guidelines for Australian Adults*, Canberra.

for pregnant and breastfeeding women. Qualitative research into the barriers and enablers to breastfeeding and development of a consistent set of indicators to monitor breastfeeding rates is also planned.

605. Healthy Eating and Physical Activity Guidelines for Early Childhood Settings are being developed to support early childhood education and care (ECEC) services with the promotion of healthy behaviours in children aged 0-5 years. Associated resources to support families and carers will also be developed and available from 1 July 2009. A *Healthy Kids Check* for all four year olds has been introduced that includes the provision of a guide for parents and carers outlining practical information on key areas of health and age appropriate development, such as healthy eating, regular exercise, speech and language, oral health, skin and sun protection and hygiene.

606. School programmes which aim to teach children how to grow, harvest, cook and share fresh food are also to be implemented in up to 190 government primary schools from 2008.

607. Aged people and those with disabilities may also experience difficulty accessing nutritious food. Approximately 80,000 volunteers who provide healthy meals daily to approximately 50,000 frail aged people and those with disabilities across Australia is supported by state, territory and federal governments. In 2007, significant funding was allocated for meal delivery services for up to 11 million meals.

608. A framework for national action aimed at improving the nutritional status of Aboriginal and Torres Strait Islander peoples is provided in the National Aboriginal and Torres Strait Islander Nutrition Strategy and Action Plan 2000-2010 (NATSINSAP). Initiatives implemented by the Federal Government under the plan include the:

(a) Remote Indigenous Stores and Takeaways (RIST) project - a three year project (2005-2008) to improve access to good quality, affordable, healthy foods in remote Aboriginal and Torres Strait Islander communities. The RIST project has developed a common set of guidelines and resources that promote access to healthy foods, and has evaluated these across identified store and takeaway trial sites;

(b) Outback Stores initiative, announced in the 2006-07 budget, aims to improve the availability of a range of goods and services, such as healthy foods, in rural and remote Aboriginal and Torres Strait Islander communities;

(c) Healthy for Life program - announced in the 2005-06 budget to improve the quality of life for people with a chronic condition and, over time, reduce the incidence of adult chronic disease. Healthy for Life will also increase the number of Indigenous Australians being trained as health professional;

(d) New national Aboriginal and Torres Strait Islander Health Worker Competencies - the inclusion of nutrition as a core unit ensures that every health worker around Australia will study nutrition as part of their training.

State/territory responses

Australian Capital Territory

Nutritional status of indigenous people, homeless people, single parent families, children, unemployed people, low income earners, older persons, persons with disabilities, people living in rural areas, refugees and asylum-seekers and their ability to access adequate, affordable and appropriate food and water.

Nutritional status: Indigenous people:

609. The following information is sourced from: Population Health Research Centre, ACT Health (2007). *The Health of Aboriginal and Torres Strait Islander People in the ACT, 2000-2005*, ACT Government, Canberra, ACT.

Adult nutritional status

610. Almost all of ACT respondents to National Aboriginal and Torres Strait Islander Health Survey (NATSIHS) reported that they consumed vegetables (98.4 per cent) or fruit (93.6 per cent) daily. The Dietary Guidelines for Australian Adults recommends that adults eat two serves of fruit and five serves of vegetables on average each day (NHMRC, 2003). Over half of ACT NATSIHS respondents reported that they consumed one or less serves of fruit daily (57.1 per cent). A third (37.7 per cent) reported consuming two-four serves of fruit daily. Nine out of ten respondents reported that they consumed less than the recommended number of serves of vegetables each day with 64.7 per cent reporting that they consumed two-four serves of vegetables and 24.6 per cent reporting they consumed one or less serves of vegetables daily. These proportions were similar to those reported by non-Aboriginal ACT respondents to the National Health Survey.

Breastfeeding

611. Overall, three quarters of Aboriginal and Torres Strait Islander children aged 0-3 years were reported to have been breastfed (74.9 per cent) with one third (33.9 per cent) being breastfed for more than six months.

Secondary students nutritional status

612. *The Dietary Guidelines for Children and Adolescents in Australia* (NHMRC, 2003) recommend that young people aged 12 to 18 years consume at least five serves of cereals, four serves of vegetables/legumes and three serves of fruit each day. Aboriginal students were significantly more likely to report that they met the nutritional guidelines than non-Aboriginal students. Almost four in ten Aboriginal students reported in the 2005 Australian Secondary Students Alcohol and Drug survey that they consumed sufficient vegetables (38.8 per cent; non-Aboriginal 21.3 per cent, $p < 0.05$), almost three in ten students reported consuming sufficient cereal (28.7 per cent; non-Aboriginal 18.1 per cent, n.s.) and six in ten students reported consuming sufficient fruit (63.1 per cent; non-Aboriginal 40.7 per cent, $p < 0.05$) to meet the recommended guidelines.

Children

613. The ACT Chief Health Officer's Report 2008 (Canberra ACT August 2008) reports that in 2006 more than one in four children (25.8 per cent) in Year 6 ACT primary schools were overweight or obese with this tendency being greater in boys (29.1 per cent) than girls (22.8 per cent). Consumption of energy dense foods and sugary soft-drinks feature prominently in many children's diets with boys more likely to consume these foods than girls. However the frequency of fruit and vegetable consumption are high.

Others

614. The ACT Council of Social Services (ACTCOSS) has identified food security as an important issue for vulnerable people in the ACT (Lilburn 2005). The results of the 2005 ACTGHS suggest that 8.8 per cent of the population will run out of food at least once over a 12-month period and have no money to buy anymore.

Access to affordable and appropriate food

615. Access to affordable and appropriate food is provided to the frail aged, younger people with disabilities and carers of either group by the Home and Community Care (HACC) Program and funded as a joint initiative of the Australian and ACT Governments. HACC funds the 'Meals on Wheels' program which is conducted by the Australian Red Cross, ACT Division. The programme delivers a daily meal seven days a week. 571 active clients access the ACT 'Meals on Wheels' program and annually approximately 208,400 meals are delivered. All meals are nutritionally balanced and designed by dieticians. The rate of client copayment or fee depends on the choice of fresh or frozen meals. The daily client cost of a frozen meal is \$4.50-\$6.00 and fresh meal is \$3.90-\$6.60. Both meals include desert and soup and can be supplemented by sandwiches, bottled water or juice. Cultural variety and choice is limited to the broad Asian and Mediterranean client groups. Halal meals have been discontinued due to the limited demand and the cost of obtaining the item from interstate sources. A small range of dietary choices as required for medical conditions or clinical restrictions is available.

New South Wales

Food and nutrition

616. NSW funds a range of healthy children programmes covering physical activity, healthy eating, primary and secondary prevention, as well as providing a range of social marketing measures.

Queensland

617. The following table provides the available recent key nutrition indicators for Queensland by socio-economic status.

Queensland adults 2008 % (95% CI)

		Overweight and obese (BMI \geq 25)	2 or more serves of fruit per day	4 or more serves of vegetables per day
Socioeconomic advantage/ disadvantage (persons 18+)	Disadvantaged quintile	58.0 (50.6-65.1)	49.4 (39.2-59.7)	29.0 (20.3-39.6)
	Quintile 2	57.2 (50.8-63.3)	46.9 (38.7-55.3)	25.0 (18.5-32.8)
	Quintile 3	56.8 (50.8-62.5)	53.4 (45.4-61.3)	18.4 (13.3-24.8)
	Quintile 4	54.0 (49.3-58.7)	57.3 (50.8-63.5)	22.4 (17.7-27.8)
	Advantaged quintile	48.2 (42.1-54.3)	60.9 (53.0-68.3)	24.5 (18.5-31.7)
Accessibility (persons 18+)	Major cities	54.5 (51.0-58.0)	58.2 (53.4-62.8)	23.2 (19.7-27.1)
	Inner regional	55.5 (49.8-61.2)	50.1 (42.4-57.8)	24.1 (18.4-30.9)
	Outer regional	53.3 (47.1-59.4)	47.9 (39.2-56.6)	23.7 (16.8-32.3)
	Remote	63.2 (48.7-75.6)	46.7 (28.5-65.8)	17.0 (7.0-35.7)
	Very remote	44.3 (27.2-62.9)	56.8 (31.7-78.9)	6.1 (1.2-25.6)

Source: Queensland Health: Omnibus telephone survey 2008.

Prepared by: Population Epidemiology Section, Population Health Queensland
Division of Chief Health Officer, Queensland Health.
(August 2008)

Notes: Self reported height and weight was used to calculate BMI (Body Mass Index)

BMI is defined as weight in kg divided by square of height in metres

BMI categories as described above

Socioeconomic disadvantage is defined using Australian Bureau of Statistics Socio-Economic Index for Areas (SEIFA) - see methodology

Remoteness is defined using the ARIA+ remoteness categories-see methodology

The 95% confidence intervals for rates are displayed and were estimated by assuming Normal approximations to the Poisson distribution

Further information: *The Health of Queenslanders 2008: Prevention of Chronic Disease. Second report of the Chief Health Officer Queensland*
http://www.health.qld.gov.au/cho_report/
(to be released November 2008).

618. *Eat Well Queensland 2002-2012: Smart Eating for a Healthier State* is the first public health food and nutrition strategy developed for all Queenslanders. More information on this initiative can be found at: <http://www.health.qld.gov.au/qphf/documents/30434.PDF>.

619. A report on the implementation of *Eat Well Queensland* is currently in preparation and will be published in early 2009. It will focus on reporting on activities to improve nutrition in Queensland, but will also include a chapter summarising available data on nutrition-related health indicators.

South Australia

620. Although some nutritional data (eg. reported fruit and vegetable consumption) is collected as part of state-level monitoring surveillance systems, it is not available as a separate document and the data for Aboriginal people, homeless people, single-parent families, unemployed people, low-income earners, older persons, persons with disabilities, persons living in rural areas, refugees and asylum-seekers are generally not adequately representative of these groups.

621. Nutritional status data for South Australian children will be available pending the release of the results of the South Australian sample of the 2007 National Children's Nutrition and Physical Activity survey (due December 2008).

622. Other State-level data which describes Health status and risk factors (including data up to 2007 is accessible in the Social Health Atlas of South Australia 2008 (available at http://www.publichealth.gov.au/data/social-health-atlas-of-south-australia-online_-2008.html) and the Aboriginal and Torres Strait Islander Social Health Atlas 2008 (published by The Public Health Information Development Unit (PHIDU) in Adelaide and available at http://www.publichealth.gov.au/interactive-mapping/south-australia-only/aboriginal-social-health-atlas_-south-australia.html).

623. In terms of improving access to healthy food for Indigenous people, particularly those in remote areas, the Commonwealth and SA Governments provide a variety of programmes and services, including:

(a) School breakfast programmes, which ensure Indigenous children have a nutritional breakfast at the start of the school day;

(b) The Commonwealth's quarantining of welfare payments in some remote communities to ensure a significant component of welfare payments is spent on essential items such as food, shelter etc;

(c) Work with Indigenous community stores to ensure that sufficient healthy food is stocked and that stores are run in an appropriate and viable manner - this is supported by the Mai Wiru 'good food' Stores Policy;

(d) The Home Maker program delivered on the APY Lands which educates Indigenous households on food safety and preparation, as well as broader household health and safety issues;

(e) SA Government work with remote communities on the APY Lands to develop viable native food businesses; and

(f) A range of child and maternal health initiatives, including prenatal health, that incorporate healthy eating components.

624. SA Health has also instigated a number of projects related to nutrition for Aboriginal people including:

(a) The Remote Aboriginal Stores and Takeaways (RIST) Project is a range of resources and guidelines aimed to improve access to healthy food in remote Aboriginal community stores, which are being distributed across SA and other states. The resources provide details on healthy foods, takeaway foods, storage and handling, freight, marketing and consumption needs and monitoring;

(b) Healthy Ways - Stage Two focuses on improving nutrition for Aboriginal mothers, babies and young children as well as to support positive child development through play in the communities of Yalata, Oak Valley, Whyalla, Coober Pedy, Oodnadatta and Marree;

(c) Supporting people's attendance at the National Indigenous Nutrition Conference 2008 (Good Tucker Good Health) held in Alice Springs and a follow up session, highlighting issues relevant to South Australia nutrition, health and education workers.

Victoria

625. The Victorian Government does not currently have comprehensive state-wide nutritional data. The Victorian Population Health Survey (VPHS) (<http://www.health.vic.gov.au/healthstatus/downloads/vphs/2006/vphs2006.pdf>) does collate data relating to consumption of fruit and vegetables; however this is disaggregated according to age, gender and region only. In the 2006 VPHS, the proportion of Victorian adults who consumed the recommended daily intake of fruit (two serves) was 47 per cent, down from a high of 56.4 per cent in 2001. The proportion of adults consuming the recommended daily intake of vegetables (five serves) was 9.9 per cent, down from 12.2 per cent in 2002. Gender has an impact on fruit and vegetable consumption in Victoria. In 2006, 6.6 per cent of Victorian males consumed the recommended intake of vegetables, compared to 13.1 per cent of females.

626. A report by the Allan's Consulting Group, *Are We There Yet? Indicators of inequality in health* (2008) provided an indication of the barriers to consumption of fruit and vegetables experienced by Indigenous Victorians and Victorians with a low income status. Illustrative findings were that approximately 4% less Indigenous Victorians consume the recommended intake of fruit when compared to the state average, with rural Victorians falling below the state average by almost 3%.

627. The Victorian Health Monitor (VHM), to be conducted in 2009, will provide baseline physical and biomedical measurement data on the prevalence of risk factors for cardiovascular disease and diabetes in the adult population. Comprehensive information on the dietary habits and nutritional status of the adult population will be collected as part of the VHM to develop nutritional policy at the state level.

Question 26. Please indicate the measures being taken to ensure adequate access to affordable and potable drinking water and sanitation services for all.

628. The provision of adequate access to affordable and potable drinking water and sanitation services is largely a state or territory responsibility. However the Federal Government provides funding for a Fixing Houses for Better Health (FHBH) program which surveys and fixes 'health hardware' items such as taps, showers, hot water systems and toilets, in rural and remote Indigenous communities. Data collected from the FHBH projects informs the *National Indigenous Housing Guide* (the Guide) which assists the Australian building industry to design, build and maintain better housing that will ultimately improve the health of Indigenous Australians. The Guide includes a section on water related issues including water quality and treatment systems. The Federal Government also funds the Centre for Appropriate Technology, which provides resources and advice to Indigenous communities on a range of issues, including water management and sanitation.

State/territory responses

Queensland

629. In July 2008 the Queensland government introduced new drinking water and recycled water regulation. This regulation is intended to improve the management of both drinking and recycled water by introducing new water quality standards and requiring development of risk management plans for both drinking and recycled water supplies.

630. Queensland has also introduced mandatory fluoridation of all public drinking water supplies serving over 1000 people. This will bring the benefits of fluoridation to over 90% of the Queensland population over the next four years.

South Australia

631. The majority of South Australians (>95%) are provided with safe drinking water by a Government owned corporation (SA Water). In addition SA Water manages the water supplies to the principal Aboriginal communities under contract to the Aboriginal Affairs and Reconciliation Division. There are a limited number of local government, industry and community operated suppliers. In the absence of mains water, households obtain water from domestic rainwater tanks or bore water.

632. All community supplies are subject to regulation by Department of Health under the SA Food Act and Regulations. The Department supports application or the risk management approach for assuring drinking water quality as described in the Australian Drinking Water Guidelines.

633. All buildings generating human sewage are required to have appropriate sanitation, and greater than 99 per cent of the population would have access to adequate sanitation. Sewerage services are provided by SA Water (Metropolitan Adelaide and major urban centres), Local Government or by individual on-site systems (septic tank and aerobic wastewater systems).

Local Government and on-site systems are regulated under the Public and Environmental Waste Control Regulations. All Local Government and on-site systems require formal public health approval prior to installation.

634. With respect to water supply for Indigenous South Australians, the South Australian Government works closely with the contracted supplier, SA Water, to ensure reliability and quality of supply.

635. The majority of the State's Indigenous people have access to mains/town water. The exceptions are remote communities on the APY Lands, Oak Valley (Maralinga Lands), Nepabunna (Flinders Ranges) and Yalata (west of Ceduna) which use bore water.

636. The quality of water supplied to South Australia's 18 major Indigenous communities (including those mentioned above) is monitored by SA Water in conjunction with the Australia Water Quality Centre. This monitoring programme is based on the requirements of Australian Drinking Water Guidelines and SA Water's Water Quality Monitoring Handbook (WQ_M05). Four attributes of water quality are monitored: microbiological, chemical, physical and biological.

637. The water quality monitoring programme allows for follow-up on any areas of concern and includes a mandatory requirement for the reporting of incidents and occasions where established thresholds have been exceeded to the Department of Health. While water scarcity in South Australia, including a trend for declining rainfall, is placing pressure on water supplies across the State, sufficient supply of safe drinking water to Indigenous communities is being maintained.

Victoria

638. The Safe Drinking Water Act 2003 enshrines a risk-based framework for the management of drinking water quality, and a number of water quality standards aimed at state government-owned water corporations. The effect of this legislation is that no matter where in Victoria drinking water is supplied, the same standards are applied. If water quality issues arise there are defined processes under the Act to address this.

639. Prices are set by an independent regulator, the Essential Services Commission, which ensures that access to drinking water remains affordable, whilst ensuring that the government-owned corporations who deliver the service remain financially viable.

Tasmania

640. Tasmania provides reticulated drinking water and access to a regular refuse collection/disposal service for urban and regional centres. These services are provided by local government networks. Due to its relatively de-centralized population, some isolated Tasmanian communities/properties are not serviced, and must provide for their own water requirements.

G. Article 12. Right to the highest attainable standard of physical and mental health

Question 27. Please provide information on the universal health coverage offered to Aboriginals and Torres Strait Islanders. How is the right to health guaranteed to such persons in comparison to other Australians?

641. Aboriginal and Torres Strait Islander people's right to health is guaranteed through the implementation of Australia's Medicare principles. Medicare is Australia's universal system for financing public hospitals and services provided by private doctors and some additional health costs. It was introduced by the Federal Government in 1984 to ensure all Australians had access to medical and hospital care when they needed it. Before Medicare, most Australians had to buy private health insurance, use hospitals as public patients or pay their own bills.

642. Medicare is based on several key principles, including:

(a) Universality: all people have the same rights and entitlements to good quality health care;

(b) Access: access to care based on health needs rather than an individual's ability to pay;

(c) Equity: Medicare is funded through general taxation and the Medicare Levy (this means those who earn the most, contribute the most). Services should be low or no-cost to patients at point of use.

643. In 2003, the Federal Government and all eight state and territory governments agreed to the National Strategic Framework for Aboriginal and Torres Strait Islander Health (NSFATSIH). The overarching goal of the NSFATSIH is "to ensure that Aboriginal and Torres Strait Islander peoples enjoy a healthy life equal to that of the general population that is enriched by a strong living culture, dignity and justice."

644. The key priorities under the NSFATSIH are:

(a) Strengthening comprehensive primary health care;

(b) Developing emotional and social well-being;

(c) Addressing the pre-determinants of chronic disease;

(d) Improving the health of Aboriginal and Torres Strait Islander peoples in custodial settings; and

(e) Improving data availability and quality.

645. A range of mainstream and Indigenous-specific health services are provided to Indigenous Australians. They include primary care services such as those provided by general practitioners, nurses and allied health professionals. They also include acute care provided in hospitals, and specialist services provided by obstetricians and eye specialists, among others. These services

are provided in a range of settings, including community health centres, and doctors' and specialists' rooms and hospitals. Health services that are controlled and operated by Indigenous communities, which operate across Australia, are also important providers of comprehensive primary health services for Indigenous Australians, particularly in remote areas. These services have the potential to increase the level of access to health services for Indigenous peoples by providing holistic and culturally appropriate care.

646. The Australian Institute of Health and Welfare recently completed an assessment of expenditures on health for Aboriginal and Torres Strait Islander health in 2004-05. The assessment provided some insights into the ways that health services are used by Indigenous peoples. Total health expenditure for Indigenous Australians was estimated at \$42,304 million in 2004-05, or 2.8 per cent of total health expenditure. More than two-thirds of the total health spending for Indigenous peoples was on publicly-provided services, such as public hospitals and community health services. On a per capita basis, \$1.17 was spent on Indigenous health for every \$1.00 spent on the health of non-Indigenous Australians. The assessment also found that Indigenous Australians were comparatively low users of medical services and pharmaceuticals. For the mainstream Federal Government programs of Medicare and the Pharmaceutical Benefits Scheme (PBS), Medicare benefits paid per Indigenous person were estimated to be 45 per cent of the non-Indigenous average, while PBS expenditure was estimated at 51 per cent of the non-Indigenous average. Though these figures represent an increase on previous years, they still indicate that equitable access to health services is yet to be achieved.

State/territory responses

New South Wales

Indigenous infant mortality

647. The NSW Government has a number of programmes designed to improve the health of Aboriginal mothers and children, including the Aboriginal Maternal and Infant Health Strategy (AMIHS). The Government has committed additional funds to increase coverage of this programme to all pregnant Aboriginal women across NSW.

Indigenous health generally

648. The NSW Government is implementing integrated chronic care services for Aboriginal people, with a focus on early detection, secondary prevention programmes, case management and care coordination.

Queensland

649. The universal right to access health services is guaranteed for all Australians by the Australian Constitution and is embodied by national health programmes such as the Medicare Benefits Schedule (MBS) and Pharmaceutical Benefits Scheme (PBS). However in reality actual levels of access, particularly by Aboriginal and Torres Strait Islander peoples, are influenced by

factors such as the cost of services that are not bulk billed, the cultural appropriateness and cultural competence of health services and programmes, and the availability of health services outside major metropolitan areas. Overcoming these barriers to health service access by Indigenous Australians remains a challenge for all governments.

650. Some of the measures implemented which will contribute to the reduction of these barriers are:

(a) Implementation of Section 100 (PBS) arrangements whereby remote areas health services can bulk purchase medicines and dispense them to Aboriginal and Torres Strait Islander patients at no cost;

(b) Implementation of Section 19.2 MBS arrangements whereby salaried doctors in approved remote area health services can bill MBS for their Aboriginal and Torres Strait Islander patients thereby alleviating any gap costs to the client;

(c) Development and implementation of a cultural capability framework to improve the cultural capacity of mainstream (state-run) health services to provide effective programmes for Indigenous Queenslanders;

(d) Funding Indigenous specific services and programmes through non-government health providers where appropriate;

(e) Collaborative arrangements between mainstream state-employed health practitioners and non-governments health service providers to enhance the clinical and cultural competence of health services and programmes;

(f) Service expansion in very remote regions including maternal and child health service and drug and alcohol services in Cape York and the establishment of a Chronic Disease Centre in the Torres Strait.

South Australia

651. The SA Department of Health (SA Health) leads and delivers a comprehensive and sustainable health system that aims to ensure healthier, longer and better lives for all South Australians. This includes Aboriginal South Australians.

652. SA Health recognises that Aboriginal people experience more life risk factors, poorer health, and less acceptable outcomes in a range of life areas when compared to other South Australians. As a result Aboriginal people are among the most disadvantaged population groups in the community.

653. SA Health actively supports the Indigenous Health Equality Summit Close the Gap statement of intent issued on 20 March 2008. This communiqué highlights the importance of ensuring primary health-care services and health-care infrastructure to bridging the gap in health-care standards by 2018.

654. One of the four goals of the SA Health Strategic Plan 2007-2009 is to improve the health of Aboriginal people in line with the South Australian Strategic Plan target to lower the morbidity and mortality rates of Aboriginal South Australians.

655. The Strategies to achieve this outcome include:

(a) Create and support culturally appropriate and dedicated Aboriginal-focused health services and models of health care, including primary health care, chronic disease management programmes, maternal and infant care, mental health care and oral health for Aboriginal people by working with Aboriginal communities, including Aboriginal Community Controlled Health Organisations;

(b) Develop effective partnerships and engagement mechanisms to work with Aboriginal communities;

(c) Improve access to appropriate and effective hospital and community health care for Aboriginal people, particularly for those living in remote settings;

(d) Continue to equip the Aboriginal health workforce with appropriate clinical, management, community development and cultural skills;

(e) Contribute to developing a healthy lifestyle culture in Aboriginal communities, particularly around drugs, smoking, alcohol misuse and nutrition;

(f) Work with other agencies to address the social determinants of Aboriginal health through community development and other enabling approaches;

(g) Support the implementation of the SA Health Cultural Respect Framework and the whole of government Cultural Inclusion Framework.

656. The effectiveness of these strategies is measured against a number of indicators including:

(a) The proportion of Aboriginal low-birth weight babies;

(b) The Aboriginal Infant mortality rate;

(c) The prevalence of chronic health conditions in Aboriginal people;

(d) The percentage of Aboriginal staff in SA Health workforce;

(e) The number of hospital admissions of Aboriginal people due to injury and poisoning;

(f) The number of GP health checks completed for Aboriginal adults and children;

(g) The number of 'Family Home Visiting' contacts for Aboriginal people.

Tasmania

657. In addition to the health-care services provided by the Commonwealth, Aboriginal and Torres Strait Islander people are able to access all of the services provided by the Department of Health and Human services (DHHS). Cultural competency training is also available to DHHS staff to ensure that they are well placed to provide an appropriate service to Aboriginal and Torres Strait Islander people.

658. Tasmania is also working with COAG on the 'Closing the Gap' initiative. This programme has set six targets that aim to close the gap between indigenous and non-indigenous Australians, one of which is to close the gap in life expectancy within one generation. COAG has agreed to hold a special meeting in 2009 that is dedicated to progressing the Closing the Gap initiative across all jurisdictions.

Victoria

659. At a Victorian level, universal health care is provided through public hospitals, community health centres, and maternal and child health service.

660. Aboriginal-specific health care is provided through:

(a) Aboriginal community controlled health organizations; and

(b) Aboriginal-specific programmes in mainstream health services, such as Aboriginal Health Promotion and Chronic Care (AHPACC) partnerships, and Improving Care for Aboriginal and Torres Strait Islander Patients (ICAP).

Question 28. Please provide details of the plans to ensure primary health-care services and infrastructure for indigenous peoples that will bridge the gap in health standards by 2018.

661. Improving the health and well being of Indigenous people is a high priority for the Federal Government which has committed to close the estimated 17 year gap in life expectancy between Indigenous and non-Indigenous Australians within a generation (2030), and halve the gap in mortality rates between Indigenous and non-Indigenous children under the age of five within a decade. It is undertaking a number of measures to ensure that adequate infrastructure and primary health-care services are available to Indigenous Australians both through Indigenous specific and mainstream primary health-care services. While continuing to fund Indigenous specific primary health-care services, a range of measures have been progressively introduced to increase the access of Aboriginal and Torres Strait Islander people to major health programmes, including the Medicare Benefits Scheme (MBS) and the Pharmaceutical Benefits Scheme (PBS) through targeted immunisation programmes, adult and child health checks and PBS listing of medicines.

662. The Federal Government recognizes that substantial benefits accrue from investments made in the first few years of life and this is even more so for children from disadvantaged backgrounds. A greater focus on interventions in the early years will also contribute significantly to the achievement of other goals relating to later life outcomes such as education and employment.

663. It is in this context that all governments in Australia - federal, state and territory have worked together to develop the first National Partnership Agreement (the Agreement) focussing on improving the early childhood outcomes of Indigenous children by addressing the high levels of disadvantage they currently experience to give them the best start in life. The Agreement comprises \$564 million of joint funding over six years. As part of the initiative, 35 Children and Family Centres are to be established across Australia to deliver integrated services that offer early learning, child care, child and maternal health services and family support programmes. The funding will also increase access to ante-natal care, teenage reproductive and sexual health services, and child and maternal health services.

664. An essential step towards improving the health of Indigenous Australians is ensuring appropriate health services and the right health workforce is available. These issues will be addressed through measures including:

(a) A commitment of \$49.3 million over four years, to improve access to drug and alcohol services, including residential treatment and rehabilitation facilities;

(b) A \$14.5 million investment over four years in the Indigenous Tobacco Control Initiative, to help tackle high rates of smoking in Indigenous communities; and

(c) An investment of \$19 million over three years in a National Indigenous Health Workforce Training Plan. Supporting a strong Indigenous health workforce and encouraging more Indigenous people to take up careers as health professionals is critical to improving health services and increasing Indigenous peoples' life expectancy.

665. A recent review of the Federal Government's Indigenous primary care programme (the Primary Health Care Review 2003-04) found that access to comprehensive primary health-care services controlled and operated by Indigenous communities are essential to improving health outcomes. The Federal Government funds some 140 community-controlled primary health-care services Australia-wide. These organizations offer a range of clinical and community support services such as clinical treatment; screening programmes; preventative health promotion; social and emotional well-being support provided by counsellors and social workers; substance use treatment programmes; transport to medical appointments; and school-based educational activities. In addition, a recent initiative by the Federal Government, the Healthy for Life program, aims to improve the capacity and performance of primary care services to deliver high quality maternal and child health services and chronic care services to Indigenous people. This programme uses best practice population health approaches and a set of essential indicators has been developed to monitor progress toward expected outcomes.

State/territory responses

Australian Capital Territory

666. 'A New Way - The ACT Aboriginal and Torres Strait Islander Health And Family Wellbeing Plan 2006-2011', was developed in response to the National Strategic Framework for Aboriginal and Torres Strait Islander Health (NSFATSIH). *A New Way* presents a long-term vision and a commitment to achieve measurable change in the health and family wellbeing of Aboriginal and Torres Strait Islander people living in the ACT and surrounding region.

667. ACT Health manages funding for programmes provided by WNAHS to Aboriginal and Torres Strait Islander people in the ACT in the following areas: maternal health, hearing and dental health, diabetes, mental health and substance misuse.

668. ACT Health in partnership with an Advisory Board is in the process of establishing an alcohol and drug residential rehabilitation programme for Aboriginal and Torres Strait Islander people.

New South Wales

669. In 2007-08 NSW allocated \$12.5b for health services, an increase of 7.1% from the previous financial year. An additional \$37.7m was allocated to new and expanded mental health services.

Northern Territory

670. *Closing the Gap*, the Northern Territory's Indigenous Generational Plan, includes Health measures valued at A\$23.4 million:

- (a) Establish integrated family/children centres in remote communities to deliver early childhood education and health programmes;
- (b) Expand alcohol rehabilitation and treatment services;
- (c) Provide sport and recreation programmes and infrastructure in each local government shire;
- (d) Expand and implement programmes targeting hearing loss and preventable chronic disease.

Queensland

671. The Queensland Government is developing *Making Tracks: a state-wide plan towards closing the gap in health outcomes for Indigenous Queenslanders*. The *Making Tracks* plan provides a comprehensive and evidence-based policy framework to guide a sustained Queensland Government contribution to closing the health gap and also details specific health strategies and programmes for implementation over the next five years of this process. The plan includes a multifaceted approach to improving the health of Indigenous Queenslanders through the implementation of programmes and services across the following key domains:

- (a) A healthy start to life - maternal and child health, parenting support, young people's health, hearing health, child safety, education and emotional and social well-being;
- (b) Addressing risk factors - health promotion, smoking cessation, drug and alcohol use, mental health promotion, oral health, nutrition and physical activity and sexual health;
- (c) Managing illness better - improved diagnosis and treatment of the leading causes of disease in Indigenous Queenslanders (cardio-vascular disease, type 2 diabetes, chronic respiratory disease, cancer and mental illness);

(d) Better access to health services - improving the patient journey by making services more culturally responsive, improving service integration and coordination across programmes and service providers, better discharge planning and follow-up, transport and accommodation near services;

(e) Workforce - developing and securing an appropriately skilled and culturally competent workforce including in the areas of Indigenous health promotion, Indigenous mental health and maternal and child health;

(f) Building on evidence - data and evidence to support continuous quality improvement in Indigenous health service delivery.

672. The plan will be finalised for publication in 2009 and programmes and services will commence from the 2009-2010 financial year.

South Australia

673. Culturally appropriate models of care are vital to ensuring the best possible health-care for South Australians. The SA Government continues to implement a range of health-care programmes and strategies aimed at providing culturally appropriate health care for Aboriginal people.

674. These include initiatives in maternal, child, women's and men's health. A number of these programmes built on opportunities created by new Australian Government initiatives or through the efforts of Aboriginal Community Controlled Health Services (ACCHS).

675. SA Health works closely with the ten South Australian ACCHSs in order to provide comprehensive primary health-care services across South Australia. However, not all rural or remote Aboriginal communities currently have access to an ACCHS. The Department is therefore working with the Commonwealth Department of Health and Ageing to extend access to such services.

676. In addition to this, the Department seeks to build the capacity of Aboriginal community organizations. The Aboriginal Community Enhancement Program is an SA Health initiative that assists Aboriginal incorporated community organizations in the rural and remote areas of South Australia address the health, wellbeing and social needs of their communities.

677. A Community Health Improvement Framework 2007-2010 and accompanying Evaluation Framework were developed during 2007-08 and will guide the next phase of development of the Aboriginal Community Development Initiative, which is designed to use social empowerment and community development approaches to address inequities impacting on people's health and provide communities with the skills and support needed to identify problems and solutions. This is achieved through the development and implementation of Community Health Improvement Plans.

678. Substance misuse has a significant detrimental effect on Indigenous Australians, which has prompted the Commonwealth and SA Governments to invest in health-related infrastructure in a range of locations in SA.

679. The Governments have built a substance misuse rehabilitation facility in Amata (APY Lands), and a mobile outreach service is operating from the facility across the Lands. The first inpatient group was admitted to the residential facility in July 2008 and since this time over 100 clients have accessed some component of the service. A number of the clients assisted have issues with petrol sniffing.

680. It should be noted, however, that the 2007 Nganampa survey of petrol sniffing in the APY Lands reported a 46 per cent fall in the number of people sniffing petrol. This follows a 60 per cent fall in the 2006 survey. The survey estimated there were approximately 38 persons who sometimes or regularly sniff petrol. This fall can be attributed to a number of factors including:

- (a) Harsher penalties for trafficking petrol and other regulated substances into the Lands;
- (b) A mobile outreach service to provide assessment, counselling and drug education;
- (c) The Commonwealth Government's introduction of Opal Fuel (non-sniffable fuel);
- (d) New activities to provide a positive outlet for young people and steer them away from the lure of sniffing including new swimming pools at Mimili, Amata and Pipalyatjara;
- (e) An increase in youth workers on the APY Lands; and
- (f) Extra police on the Lands.

681. Other facilities to manage the impact of substance misuse on the health of Indigenous South Australians are being constructed in areas of significant Indigenous populations, namely Port Augusta, Ceduna and Coober Pedy. Day centres offering care and treatment of Indigenous people affected by substance misuse will be available in Port Augusta and Ceduna by mid 2009, with the Coober Pedy centre expected to be operational by late 2009.

Tasmania

682. Tasmania is party to the current COAG negotiations focused on bridging the gap in health outcomes between indigenous and non-indigenous Australians. Negotiations for national partnerships are currently underway.

Victoria

683. The Aboriginal Health Promotion and Chronic Care (AHPACC) partnership aims to:

- (a) Increase access for Aboriginal Victorians to primary health-care services, health promotion programmes and chronic disease management programmes;
- (b) Improve clinical service delivery, coordination and continuity of care and support for chronic disease self-management approaches;
- (c) Coordinate approaches to health promotion planning, implementation and evaluation;

(d) Increase capacity of community health services in the provision of culturally sensitive services;

(e) Establish sustainable partnership models between mainstream community health services and Aboriginal organizations; and

(f) Enhance workforce development and organizational support.

Western Australia

Department of Health

684. Addressing issues in Aboriginal health offers substantial challenges for health professionals, the Government and the community, not only because of the kinds of health issues experienced by Aboriginal people, but also by the governance and accountability arrangements at a state and federal level.

685. WA Health's reform programme has provided renewed commitment and enthusiasm to improving the lifestyles, health and wellbeing for all Western Australians, with Aboriginal communities a priority. WA Health is developing responsive policy and practice that is forming a strong foundation from which the Aboriginal primary care sector will advance.

686. The WA Aboriginal Primary Care Action Plan gives service providers and communities a State-wide vision for Aboriginal primary care, evidence-based priorities, an approach to culturally secure models of care and achievable health outcomes that strongly emphasise a focus on child and maternal health. It offers a framework that will assist service providers and communities with their local planning.

687. The WA Aboriginal Primary Care Action Plan seeks to build on existing strategies that are working successfully and establish strong links with new initiatives that are aligned with the reforms taking place across the WA Health system.

688. A Lifecourse approach will be promoted for the planning and delivery of primary care services to Aboriginal people in Western Australia. The Lifecourse approach groups strategies and actions around four key periods in life that impact on Aboriginal health:

(a) The early years;

(b) Adolescence and transition from school years;

(c) The family years;

(d) The granny years.

689. 17 per cent more is expended on Indigenous Australians than the average of the population (Australian Institute of Health and Welfare - Australia's Health 2008).

Question 29. Please provide details of the proportion of public expenditure spent on mental health care.

690. The National Mental Report 2007 provides the most recent analysis of Australia's **overall** spending on mental health and states that: spending on mental health services and related activity in 2006 represented approximately 6.8 per cent of national (government and other) total gross recurrent expenditure on health services, and 7.3 per cent of government health spending. These figures have remained relatively stable over the course of the National Mental Health Strategy.

691. In relation to the proportion of public expenditure spent on mental health care for Aboriginal and Torres Strait Islander peoples in Australia, in 2005 it was \$3.9 billion, which was an 85 per cent increase since 1993. Federal Government spending was \$1.3 billion, states and territories \$2.38 billion and private health insurers \$163 million. Mental health accounted for 6.8 per cent of total health-care expenditure and 7.3 per cent of government health spending.

692. Beyond specialist mental health care, a wide range of other health and welfare services are needed to support people with mental illness. The Federal Government funds a number of assistance programmes, including income support, housing services, domiciliary care and employment and training opportunities. Conservative estimates of Federal Government spending alone suggest that, for every dollar allocated to specialized mental health care, an additional \$3.10 is spent providing other support services to assist people with mental illness. This is equivalent to \$4.3 billion in 2005 prices.

693. Because of the shift towards more community based mental health care under the National Mental Health Strategy, the spending on these types of services by the states and territories is increasing in proportion to spending on acute care services.

State/territory responses

Australian Capital Territory

694. ACT Health outlays an average of 7 per cent of its public expenditure on mental health care.

Queensland

695. The most recent published national comparative data comes from the National Mental Health Report 2007, which notes that all states and territories have met their commitments to protect mental health resources over the course of the National Mental Health Strategy.

696. The National Mental Health Report 2007 notes that in 2004-05, recurrent expenditure on mental health services in Queensland was \$390.6 million. This represents 7.6 per cent of the total health budget of \$5.1 billion (during 2004-05).

697. The recently launched Queensland Plan for Mental Health 2007-2017 ('the Plan') establishes targets for mental health service provision and growth over the next decade. As part of the 2007-08 State Budget, the Queensland Government committed a record \$528.8 million over four years to implement the Plan and improve Queensland's mental health system.

698. As detailed in the Outline of the 2007-08 State Budget Outcomes for Mental Health, the \$528.8 million in additional funding will focus on the following priority areas:

- (a) Promotion, prevention and early intervention - \$9.35 million;
- (b) Integrating and improving the care system - \$345.8 million;
- (c) Participation in the community - \$98.09 million;
- (d) Coordinating care - \$4.77 million; and
- (e) Workforce, quality, information and safety - \$70.82 million.

699. In 2008-09, an additional \$88.6 million was committed over four years. Of the \$88.6 million in the 2008-09 budget, \$82.6 million was allocated for Queensland Health to support the staffing of mental health inpatient services for which the capital allocation was announced in the 2007-08 budget. The other \$6 million was allocated to Disability Services Queensland to provide disability support under the Housing and Support Program.

700. By 2011-12, the Queensland Government will have invested more than \$1 billion dollars in new funding to improve mental health services since 2006.

South Australia

701. The South Australian Government has placed mental health services high on the State's priorities and there is a target in the State Strategic Plan to reduce the level of psychological distress in the community.

702. A review of mental health services was undertaken in late 2006 and reported its findings in February 2007. The report made 41 recommendations to reform mental health services and the Government responded by committing \$107.9 million over five years to implement the reforms.

703. The government has also recognised the need to improve the infrastructure of mental health services and has committed over \$250 million to develop new facilities in the community of which \$64 million arises from the reforms of the review. The Government is also seeking to improve services in the community and provided some \$19.9m over four years to employ additional workers to provide services to children and adolescents as well as to work with general practitioners in local communities

704. The proportion of public expenditure spent on mental health care over the last 3 years has been approximately seven percent (7 per cent).

Victoria

705. As detailed in the Department of Human Services Annual Report, expenditure on Mental Health in 2007-08 was \$813.0 million. This represented approximately 6.7 per cent of the total DHS expenditure for 2007/08 (\$12,114.6 million).

Western Australia

706. The current financial systems in WA Health do not support the separation of expenditure on mental health care from other health expenditure. On the basis of survey data it has been estimated that the 2008/09 WA State Government expenditure on the specialized mental health programme will be approximately 9.8 per cent of the total health budget in WA. (Please note that this figure is based on estimates and can change when the actual expenditure figures become available.)

H. Articles 13 and 14. Right to education

Question 30. Please provide details on the proportion of public expenditure spent on primary and secondary education, disaggregated on an annual basis according to public and private schools.

707. Australian, State and Territory government recurrent expenditure on school education was \$32.4 billion in 2005-06. Expenditure on government schools was \$25.4 billion, or 78.4 per cent of the total.

Government schools	\$25.371 billion
Non-Government schools	\$ 6.993 billion
TOTAL	\$32.364 billion

State/territory responses

Australian Capital Territory

Expenditure on primary and secondary education

708. In 2007/08 the proportion of ACT Government public expenditure (including Commonwealth Grants) spent on primary and secondary education was 19.3 per cent (\$600.8m). Of this 10.5 per cent (\$327.6m) was spent on primary school education and 8.8 per cent (\$273.2m) was spent on secondary school education.

709. In that same year the proportion of ACT Government public expenditure spent on the government school sector was 14.6 per cent (\$454.2m) and in the non-government sector was 4.9% (\$152.4m), of which \$5.8m was provided as capital grants.

710. The ACT Government is a minor funding partner of non-government schools in a three-way funding partnership that includes the Australian Government and parents.

New South Wales

711. In 2007-08 NSW allocated \$10.5b for education and training services, an increase of 4.7 per cent.

Queensland

712. In 2005/06 Queensland Government expenditure on government and non-government schooling totalled \$5,058 million:

Government schools:	
Commonwealth Government Funding	\$ 455m
Queensland Government funding	<u>\$4 566m</u>
Total	\$5 021m
Non-Government schools:	
Commonwealth Government Funding	\$ 968m
Queensland Government funding	<u>\$ 492m</u>
Total	<u>\$1 460m</u>
Total spending on government and non-government schools	<u>\$1 423m</u>
Commonwealth Government	
Queensland Government	<u>\$5 058m</u>
Total	<u>\$6 481m</u>

Source: Table 4.1 “Government recurrent expenditure of school education, 2005/06” Report of Government Services 2008, pg 4.4.

713. Data for 2006/07 data should be available from the 2006/07 Report of Government Services in early 2009.

South Australia

714. The following table shows actual expenditure for Australia as a whole on government and non-government schools sourced from the 2008 Report on Government Services produced by the Productivity Commission.

Sector	Expenditure (2005/06)	Percentage
Government	\$25 370 650 156	99.97
Non-Government	6 992 898	0.03
Total	\$25 377 643 054	100.00

716. A detailed breakdown of this funding by type of education can be found at the following website: <http://www.pc.gov.au/gsp/reports/rogs/2008/earlychildhoodeducationandtraining/Attach4A.xls>.

Tasmania

717. This information is contained in the annual Report on Government Services (ROGS) published by the Productivity Commission.

718. In the 2005-06 financial year, Tasmania spent \$636 million on primary and secondary government schools (18.56 per cent of total government expenditure) and \$37 million on primary and secondary non-government schools (1.08 per cent of total government expenditure). This expenditure was supplemented by a Commonwealth contribution of \$165 million (\$104 million of which went to non-government schools).

Victoria

719. The proportion of primary and secondary education disaggregated according to public and private schools (data supplied as available).

720. *Private Schools 2008 calendar year**

Sector	Expenditure (\$)	%
Primary	174 899 376	38.8
Secondary	275 872 211	61.2
Total	450 771 587	100.0

* Please note figures for private schools are based on Victorian state funding.

721. *Public Schools 2006 calendar year#*

Sector	Expenditure (\$ M)	%
Primary	3 214	52.4
Secondary	2 915	47.6
Total	6 129	100.0

Please note figures for public schools are based on Victorian MCEETYA data as at 30 June 2007.

Western Australia

Department of Education and Training

	WA \$ M	%	Australia \$ M	%
Government schools				
Australian Government	246	8.5	2 267	8.9
State Government	2 634	91.5	23 104	91.1
Total	2 880	100.0	25 371	100.0
Non-government schools				
Australian Government	501	70.2	5 039	72.1
State Government	213	29.8	1 954	27.9
Total	714	100.0	6 993	100.0

Source: *The Productivity Commission Report on Government Services 2008, table 4.1.*

Note: 2005/06 is the latest year's data to be published.

722. The above table shows that Western Australian government schools receive 91.5 per cent of funding from the State Government and 8.5 per cent from the Australian Government.

723. In addition, Western Australian government schools receive a slightly lower per cent of funding from the Australian Government (8.5 per cent) compared to the national average (8.9 per cent).

724. Western Australian non-government schools receive a higher per cent of funding from State funds (29.8 per cent) than the national average (27.9 per cent).

Government education sector

	2006/07	Total	Schooling	2007/08	Total	Schooling
	Actual			Actual		
Services:	\$'000	%	%	\$'000	%	%
Primary Education	1 555 232	50.0	59.2	1 715 217	50.9	60.3
Secondary Education	1 070 235	34.4	40.8	1 127 782	33.5	39.7
VET	482 366	15.5		525 127	15.6	
Total Cost of Services	3 107 833	100.0	100.0	3 368 126	100.0	100.0

Source: Western Australian 2007/08 Annual Report page 126 with 2006/07 figures adjusted for the removal of the Capital User Charge which was not paid in 2007/08.

725. The above table shows that of the Western Australian Department of Education and Training Total Cost of Services which relate to Schooling around 60 per cent is on primary schooling and 40 per cent is on secondary schooling.

Non-government education sector

	2006/07	Total	Schooling	2007/08	Total	Schooling
	Actual			Actual		
Services:	\$'000	%	%	\$'000	%	%
Primary Education	115 433	43.9	45.6	123 976	44.1	45.6
Secondary Education	137 709	52.4	54.4	147 902	52.6	54.4
Higher Education	9 664	3.7		9 488	3.4	
Total Cost of Services	262 806	100.0	100.0	281 366	100.0	100.0

Source: 2007/08 Annual Report page 40 and 61 with 2006/07 figures adjusted for the removal of the Capital User Charge which was not paid in 2007/08.

726. The above table shows that of the Western Australian Department of Education Services Total Cost of Services which relate to Schooling around 46 per cent is on primary schooling and 54 per cent is on secondary schooling.

Question 31. Please indicate the ways in which the educational system is culturally appropriate for Australian children of indigenous origin. Please also indicate what steps are being taken to bridge the gap between the percentage of indigenous students who complete secondary school in comparison with that of non-indigenous students.

727. The disadvantage faced by Indigenous people in Australia has been acknowledged by all Australian governments and education providers. Despite improvements, the educational outcomes of Indigenous people are lower than those of non-Indigenous Australians, with the greatest educational disadvantage being faced by Indigenous people in remote areas. Issues of non-inclusive education and poor educational outcomes for Indigenous people are being addressed through policies which have been endorsed by all Australian governments.

728. A culturally responsive and inclusive curriculum ensures that students' backgrounds and needs are recognised and nurtured and should acknowledge and incorporate the knowledge, experiences and contributions of a variety of cultures, including Indigenous cultures.

729. Increasing inclusive education is a goal across all sectors, from early childhood to higher education. The Australian Government does not operate schools, nor does it set school curricula. The major Indigenous education programmes are those administered by the Australian Government which provides funding to education providers in order to assist them in providing programmes of assistance to Indigenous students. Recipients of funding under the Indigenous Education Program are required to report annually to the Australian Government on outcomes in eight priority areas in Indigenous education, including on the use of culturally inclusive curricula and the employment of Indigenous staff. For each year of the Indigenous Education Program quadrennium, 2005-2008, targets have been established against performance indicators for each of the priority areas. This information is, in turn, published annually in the *National Report to Parliament on Indigenous Education and Training*.

730. In the preschool sector, providers have reported strategies for culturally inclusive curricula through:

- (a) Teachers recognizing and valuing Indigenous cultures;
- (b) Indigenous cultural resources being displayed, and Indigenous culture being celebrated at the preschool;
- (c) Welcoming Indigenous parents, families and community members.

731. In the school sector many schools and systems have reported that Indigenous perspectives have been incorporated across the curriculum. Providers have reported that a benefit of culturally inclusive curricula is that an active engagement with the local Indigenous community is encouraged, leading to a greater engagement by students.

732. Culturally inclusive curricula is also measured in the vocational education and training sector. Reporting examines the extent to which a system or institution provides mainstream courses or modules that are:

- (a) Responsive to specific requests or needs of Indigenous people;
- (b) Inclusive of Aboriginal and Torres Strait Islander cultural perspectives; and
- (c) Specific in design to the needs of Indigenous people.

733. Higher education providers report that by 2006 almost all offer Indigenous Studies in some form with increasing numbers of faculties are requiring all undergraduate students to undertake at least one core Indigenous Studies subject.

734. All Australian governments, through the COAG process, agreed in 2008 to a set of targets to close the gap in educational outcomes between Indigenous and non-Indigenous Australians. The targets provide both an outcome and a timeframe within which the target is to be achieved. The education targets are:

- (a) To halve the gap in literacy and numeracy achievement between Aboriginal and Torres Strait Islander students and other students within a decade;
- (b) To at least halve the gap in attainment at Year 12 schooling (or equivalent) by 2020; and
- (c) To provide all Aboriginal and Torres Strait Islander four year olds in remote communities with access to a quality preschool programme within five years.

735. There has been an increase in the number of Indigenous people enrolled in Year 12. There was a 15.6 per cent increase in Indigenous Year 12 enrolments between 2006 and 2007, contributing to a Year 12 apparent retention rate of 42.9% in 2007 compared to 29% in 1996.

736. Governments, and education providers, are working to implement new initiatives and continue to deliver existing programmes that assist in the attainment of these goals, including increasing the percentage of Indigenous students attaining Year 12, or its vocational equivalent. These initiatives include increasing access to secondary school facilities through the Indigenous Youth Leadership Program (IYLP), contributing to the costs of establishing three new boarding facilities for Indigenous secondary school students in the Northern Territory, and through ensuring Indigenous students achieve the literacy and numeracy benchmarks.

737. Australian governments are also implementing the recommendations of Australian Directions in Indigenous Education 2005-2008 through the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). The recommendations are constructed in the view that the best method of addressing these issues is through programmes which are 'built in' to core business, rather than being 'bolted on' and outside the usual business of school staff, parents and communities.

738. Through these initiatives, and in partnership with the states and territories, education providers, parents and communities, the gap in educational disadvantage between Indigenous and non-Indigenous Australians is being addressed.

Humanities

739. Civics and Citizenship Education is a national priority in Australia. The Draft National Declaration of Educational Goals for Young Australians, recently developed by Australian Ministers for Education, includes a commitment to supporting all young Australians to become active and informed citizens. The Draft National Declaration states that active and informed citizens appreciate Australia's diversity of culture and history, including the special place of Aboriginal and Torres Strait Islander cultures.

Languages and Asian Studies

740. The School Languages Program (SLP) helps schools and school communities improve the learning outcomes of students who are learning languages other than English in Australian schools and in after hours ethnic schools. The majority of funding is provided to state and territory education authorities to support languages education at any level of kindergarten-12, including Indigenous, Asian, European languages and Auslan, the language of the hearing impaired.

741. Whilst state and territory education authorities make the final decisions about the use of SLP funding in their jurisdiction, they must ensure that activities funded under the SLP support the six strands of the MCEETYA National Plan for Languages Education in Australian Schools 2005-2008 (The National Plan) as detailed in the quadrennial administrative guidelines. In the 2005-08 quadrennium, education authorities have been required to a report each year on SLP program activities for the preceding year and the funds allocated to Indigenous languages and after-hours ethnic schools.

742. The National Plan states that 'Australian Indigenous Languages have a unique place in Australia's heritage and in its cultural and educational life. For Indigenous learners, they are fundamental to strengthening identity and self esteem. For non-Indigenous learners, they provide a focus for development of cultural understanding and reconciliation'. The Plan requires consideration, research and action in relation to the unique demands of teaching and learning Australian Indigenous Languages, and the contribution of Australian Indigenous Languages to community led maintenance and revival of Australian Indigenous Languages and cultures.

743. Since 2005, five per cent of SLP funds have been set aside for national strategic projects to support the implementation of the National Plan. One such national project, An Investigation of the State and Nature of Languages in Australian Schools, built on previous research to generate a comprehensive national picture of languages education, and recommended strategies to increase effectiveness and quality of school-based languages programme. The study found that in 2005, of the 133 languages reported in all sectors of Australian, 45 were Indigenous Australian languages as reported by the report.

744. Another study commissioned by the Department that is currently underway, *Investigation into the current provision of Indigenous language programs in Australian schools*, while investigating the current provision of Indigenous languages programmes in Australian schools will also examine staffing, training, and teacher preparation initiatives and issues relating to these programmes.

Science and maths education

745. The Australian Government is funding three key national school science education projects: *Primary Connections*, *Science by Doing* and *Scientists in Schools*. The projects aim to increase the numbers of students studying science in the senior secondary years by raising students' interest and competence in science in the primary and early secondary years. A range of inclusive teaching practices are being employed to respond to the range of abilities and diverse needs of students. These practices include an inquiry-based approach, hands on activities, students working collaboratively, linking science with other curriculum areas, making connections to the real world, and involving the wider community.

746. The *Primary Connections: linking science with literacy* project is providing professional learning and exemplary curriculum resources for primary teachers. Indigenous perspectives are embedding Indigenous ways of knowing and learning in the project's curriculum materials and teacher resources.

747. The *Science by Doing* project is developing a model, inquiry-based approach to science teaching and learning in the junior secondary school years. An Indigenous perspective will be included in teacher materials.

748. The *Scientists in Schools* program involves scientists partnering with primary and secondary school teachers. Complementary regional gatherings and symposia promote sustained and ongoing teacher-scientist relationships and include an Indigenous component. Efforts are being made to identify and involve as many Indigenous scientists as possible.

749. The Australian Government has also provided funding for the *Indigenous Science Education Project*, managed by Scitech, an interactive science and technology museum in Perth, Western Australia. The project is developing and delivering a culturally relevant and accessible science education programme to Indigenous communities throughout Western Australia, including the Pilbara and Kimberley regions. A key objective is to involve industry partners to enable a longer-term sustainable impact on Indigenous science teaching and learning beyond the initial project timeframe.

National curriculum

750. Through the Council of Australian Governments (COAG), all Australian Governments have committed to the development and implementation of a rigorous and world-class national curriculum from kindergarten to Year 12, starting with the key learning areas of English, mathematics, the sciences and history. National curriculum will be developed by 2010, and implemented by all states and territories from 2011.

751. National curriculum will bring many benefits to all young Australians, including Indigenous Australians.

752. All young Australians will benefit from national curriculum as it will provide clear and explicit agreement on the curriculum essentials that students should have access to, regardless of their socio-economic background or the location of their school.

753. Developing national curriculum in subjects such as history will also offer opportunities for all young Australians to study and appreciate Australia's history and culture, including the place of Indigenous Australians and their culture in that history.

754. The new national curriculum will draw on exemplary curriculum materials from the states and territories and educationally high-performing countries and combine it with fresh, new curriculum material and ideas where they will benefit our students. The resulting curriculum will be dynamic, inspiring and futures-oriented and, as such, will be more engaging and relevant for students. The increased level of student engagement at school should contribute to more young Australians completing schooling through to Year 12 and the COAG target to lift the Year 12 retention rate to 90 per cent by 2020.

State/territory responses

Australian Capital Territory

Cultural appropriateness (for indigenous children) of the education system

755. Indigenous home-school liaison officers promote the enrolment of Indigenous students in preschools and encourage parent/caregiver involvement. Community networks are utilised to disseminate promotional materials. The Department is working with Indigenous community organizations to promote preschool enrolment, attendance and participation.

756. Preschool Indigenous Home-School Liaison Officers work with their primary school-based colleagues to provide support during the transition into kindergarten.

757. Children who are speakers of Aboriginal English may be eligible for support from the Preschool ESL Teachers. Teachers of Indigenous children receive professional learning and advice to enhance learning outcomes and 'school readiness'.

758. The Australian Capital Territory is collaborating with the ACT Indigenous Education Consultative Body to undertake a research project focussing on the early years and language acquisition (including Aboriginal English) and how this relates to school readiness.

759. The ACT provides professional learning and information for school staff on respecting and valuing Indigenous cultures, acknowledging and supporting Indigenous languages, including Aboriginal English and contexts, and strategies relating to the explicit teaching of Standard Australian English. Early childhood education officers collaborate with Indigenous home-school liaison officers to ensure the inclusion of Indigenous content in all professional learning.

760. In 2008, professional learning in school leadership for principals is focussing on Indigenous education. The literacy and numeracy programme aims to assist Indigenous students from kindergarten to year 4 who are in need of additional literacy and numeracy support.

761. Indigenous Education Officers (IEOs) are based in high schools. They work to improve attendance and establish the connection and build relationships between the schools and Aboriginal and Torres Strait Islander families and communities. Indigenous Education Officers (IEOs) are working with MindMatters to deliver the *Feeling Deadly Not Shame* program in high schools and community settings. This programme has been developed by MindMatters specifically for Aboriginal and Torres Strait Islander young people, enhancing resilience and identity.

762. Indigenous Education Workers (IEWs) are based in primary schools. They provide support to Indigenous students in the school environment and work with the school community to raise awareness of Indigenous issues and perspectives.

763. A range of strategies has been developed to achieve the recommendations of the MCEETYA report *Australian Directions in Indigenous Education 2005-2008*. One of these is that principals are now required to include statements in their performance appraisals focusing on improving outcomes in Indigenous education. Also, this year partnership agreements have commenced on a school cluster basis. These partnerships involve the high school and local primary schools agreeing to work with each other, their Indigenous students and parents and caregivers.

764. Homework centres at strategic locations have been established for Indigenous students.

765. 78 public schools have joined the *Dare to Lead* program. *Dare To Lead* is managed by the Australian Principals' Association Professional Development Council (APAPDC) to encourage and support school principals across Australia to improve educational outcomes for Indigenous students through innovative resources and teaching methods.

Queensland

766. Queensland Government state schools strive for an understanding of, and respect for, Aboriginal cultures and Torres Strait Islander cultures. Queensland believes this is essential to the maturity of Australia as a nation and fundamental to the development of an Australian identity.

767. The Queensland Government is implementing a number of programmes to promote Indigenous people's cultures and a culturally appropriate education system including the employment of Indigenous education staff and cultural awareness programmes for the non-Indigenous staff.

768. Of particular note is a programme of embedding Aboriginal and Torres Strait Islander perspectives across the curriculum. The programme celebrates Indigenous ways of viewing the world: people, places and objects and their interrelationships. Through a greater understanding and respect we are able to build stronger relationships with Aboriginal students and Torres Strait Islander students. This is the key to Indigenous students achieving their full potential.

769. The Queensland government has set targets to improve the retention rates of Indigenous students to year 12. Strategies to achieve this outcome include transition support to improve school completion rates of Indigenous students, student accommodation for remote Indigenous students, school based traineeships and apprenticeship and scholarships.

South Australia

770. A number of state-wide and education specific strategies are targeted towards ensuring that the educational system is culturally appropriate for Australian children of Indigenous origin.

Culturally appropriate curriculum and teaching

771. The Department of Education and Children's Services (DECS) Aboriginal Strategy 2005-2010 has two specific targets related to culturally appropriate curriculum and teaching:

- (a) Target 18 - All Curriculum Policy and Strategies explicitly attends to the teaching, learning and assessment of Aboriginal learners;
- (b) Target 19 - Ongoing development and promotion of curriculum materials that support Aboriginal studies, reconciliation and cultural respect.

772. Key outcomes to be achieved include:

- (a) Comprehensive and informative data on all Aboriginal students to inform education and learning decision making processes;
- (b) Relevant professional development for teachers and educators;
- (c) An ongoing focus on reconciliation for improved social outcomes and understanding.

773. South Australia's Strategic Plan target 4.5 focuses on understanding of Aboriginal culture, in particular that Aboriginal cultural studies be included in school curriculum by 2014 with involvement of Aboriginal people in design and delivery.

774. Currently, Aboriginal perspectives are embedded across the curriculum as one of the South Australian Curriculum, Standards and Accountability Framework (SACSA) equity perspectives within all Learning Areas from birth to Year 10.

775. Ten Aboriginal Cultural Studies Project Schools have been selected and supported to contribute to the development of the curriculum materials.

776. Consultation is occurring with the South Australian Aboriginal Advisory Council, District Aboriginal Community Voice Groups, and District and school based Aboriginal employees within DECS.

Please also indicate what steps are being taken to bridge the gap between the percentage of indigenous students who complete secondary school in comparison with that of non-indigenous students.

777. The DECS Aboriginal Strategy 2005-2010 has three targets aimed at supporting Aboriginal students to complete their secondary education:

(a) Target 7 - increase the number of Aboriginal students in senior secondary programmes by 2010 from 7 per cent to 16 per cent in year 12 and 17 per cent to 21 per cent in year 11;

(b) Target 8 - increase the retention rate of young Aboriginal people to year 12 or its equivalent from 36.4 per cent in 2004 to the State equivalent of 70 per cent by 2010;

(c) Target 9 - increase the number of Year 12 Aboriginal Students completing the SACE or the equivalent to the State level of 70 per cent by 2010. Aboriginal completion rates in 2007 were 68 per cent compared to all students at 77 per cent.

778. Strategies to support achievement of these targets include:

(a) Improved outcomes through data and information exchange between the South Australian Certificate of Education (SACE) Board and DECS;

(b) Matching and tracking of Aboriginal students between the SACE Board and DECS;

(c) Developing a system to track Aboriginal students enrolled in the SACE and intervening if students are at risk of non-completion;

(d) Student information provided to district offices to assist in monitoring students' education and well being;

(e) Involving Aboriginal parents/caregivers in the development of Individual Learning Plans (ILPs) which address student attendance, behaviour, literacy and numeracy. 92% of all Aboriginal students in DECS preschools and schools have an ILP.

779. There is an increase in the number of, and percentage of, Aboriginal students engaging in the senior years of schooling. The percentage of Aboriginal students in year 11 and year 12 has achieved set targets between 2003 and 2006. In 2006 to 2007 there was a further increase in the number of Aboriginal students in year 10, 11 and 12. The 2007 year cohort of year 12 Aboriginal students was the largest number retained in year 12 and the largest number of students to successfully complete the SACE.

Tasmania

780. The Department of Education conducts professional learning programmes for its staff including Indigenous history and culture. Indigenous perspectives are actively integrated across the Tasmanian Curriculum and Indigenous students are supported to maintain links to cultural knowledge, places and practices.

Victoria

781. Victoria's commitment to a culturally appropriate education system is evident in the Victorian Essential Learning Standards (VELS), which incorporates Indigenous studies into all aspects of the curriculum.

782. Victoria's key initiatives include:

- (a) Culturally appropriate education system:
 - (i) In conjunction with the Victorian Aboriginal Education Association Inc (VAEAI), work with the Victorian Curriculum and Assessment Authority to develop a culturally inclusive curriculum within the VELs;
 - (ii) Require school principals with Koorie students enrolled at their school to undertake professional development in consultation with their Koorie community and VAEAI in order to develop a culturally inclusive school;
 - (iii) Increase and encourage participation by Victorian schools and regions in national leadership programmes;
 - (iv) Develop literacy programmes in conjunction with VAEAI that recognise the importance of 'code switching' between Koorie English and Standard Australian English;
 - (v) In conjunction with VAEAI, work with parents and community to build their confidence in the school system;
- (b) Retention and completion:
 - (i) Require full implementation of the 'students at risk' mapping tool in schools with Koorie students enrolled to enhance school understanding and use of learning and engagement tools;
 - (ii) Require all government schools to develop an Individual Education Plan (IEP) for every Koorie student in their school that will be linked to the Managed Individual Pathways initiative;
 - (iii) Expand the Managed Individual Pathways initiative into Years 8 and 9 for Koorie students at risk of disengaging from school;
 - (iv) Develop Youth Transition Support Initiatives in locations where there is a high concentration of disengaged Koorie young people;
 - (v) Provide scholarships for high-performing Koorie students to assist them with the costs of continued study;
 - (vi) Identify the issues from outside the school gate that significantly impact on student education outcomes and participation.

783. The Victorian Government, in partnership with the Victorian VAEAI, launched the new education strategy for Koorie students Wannik, Learning Together, Journey to Our Future. This strategy aims to bridge the gap between the number of Indigenous students who complete secondary school in comparison with non-Indigenous students, while substantially improving the educational outcomes for all Indigenous students.

784. Wannik is a comprehensive strategy focussed on improving the educational outcomes in Victoria. Wannik is committed to creating an environment that respects, recognises and celebrates cultural identity through practice and curriculum by:

- (a) Providing intensive literacy and numeracy programmes for students achieving below expected levels;
- (b) Providing additional support and incentives for top students, to provide encouragement to excel;
- (c) Development of leadership opportunities for Koorie students in secondary schools; and
- (d) Celebrating Koorie culture and identity in all schools for all students.

Western Australia

Department of Education and Training

785. The Department aims to provide a supportive and culturally inclusive learning environment for all students through the following strategies and programmes.

786. The Department employs a significant number of Aboriginal personnel and specialist staff to improve outcomes for Aboriginal students. Aboriginal education teams in district offices and Aboriginal and Island Education Officers in schools provide a link between schools and Aboriginal communities. The Department's Aboriginal employment strategy has been developed to increase the representation of Aboriginal employees across the Department.

787. Aboriginal Studies is specifically taught in schools as part of the K-10 syllabus. The syllabus incorporates resources to support the considerations of Aboriginal viewpoints on social, cultural and historical matters. A website has been developed to provide information, resources and lesson plans for teaching Aboriginal perspectives across all curriculum areas.

788. Support is provided to Aboriginal students who commence compulsory schooling speaking a language other than English. Training is provided for teachers to assist them to understand the particular literacy needs of Aboriginal students who do not speak Standard Australian English on the commencement of formal schooling and encourages educators to reflect upon the culture and value systems implicit in mainstream schools. Aboriginal languages are taught in 72 schools in Western Australia.

789. Two Aboriginal systemic schools have been established to cater for an Aboriginal student population. These and all remote community schools offer programmes that give particular attention to Aboriginal culture, history and languages.

790. Cultural awareness professional learning is provided for school leaders, teachers and support staff who have direct contact with Aboriginal children and families by the Managers of Aboriginal Education in the education districts across the State. Professional leadership programmes support school leaders to strengthen their capacity to improve the attendance, retention and achievement outcomes of Aboriginal students.

Question 32. Please provide information on: (a) the proportion of children with disabilities in secondary education and; (b) the adequacy and effectiveness of support for children with disabilities aimed at enabling them to participate fully in and complete secondary education.

The proportion of children with disability in secondary education

791. According to administrative data collected by the Department of Education, Employment and Workplace Relations for funding purposes, in 2007 there were 60,872.3 students with disability attending secondary school. This represents a proportion of 4.2 per cent of all secondary students in Australia.

The adequacy and effectiveness of support for children with disability aimed at enabling them to participate fully in and complete secondary education

792. The Australian Government strongly supports the rights of students with disability to have the same educational opportunities as other children and is committed to providing ongoing funding to assist in meeting these students' special needs so they can reach their potential. As state and territory governments have the constitutional responsibility for the delivery of school education and related student support services, government and non-government education authorities in each jurisdiction administer this funding and make the final decisions about allocation of these resources to provide additional support for individual students with disability.

793. In recognition of the significant links between higher educational attainment and post school achievement, the Australian Government, through the Council of Australian Governments, has recently embarked upon an ambitious reform agenda for school education in collaboration with states and territories. For the first time, all Australian governments have agreed on a common framework that focuses on improving teacher and school leader quality, high standards and expectations, greater accountability and transparency of information and better directed resources. This reform agenda is designed to improve education outcomes for all students, including those with disability.

794. In response to the increasing number of children diagnosed with an Autism Spectrum Disorder (ASD) in Australia, the Australian Government is implementing the *Helping Children with Autism* package. The package is being implemented by the Departments of Families, Housing, Community Services and Indigenous Affairs, Health and Ageing and Education, Employment and Workplace Relations (DEEWR). DEEWR is implementing two components of

the initiative which aim to foster productive partnerships between schools and families and improve the educational outcomes of students with an ASD, which includes those in secondary schooling. The two components are:

(a) Professional development for teachers and other school staff to increase their understanding, skills and expertise in working with school aged students with an ASD; and

(b) Workshops and information sessions for parents and carers of school aged children with an ASD to assist them to develop productive partnerships with their child's school teachers and school leaders.

795. An independent evaluation of DEEWR's components of the package will commence in 2009. The effectiveness, efficiency and appropriateness of the above measures in increasing the educational outcomes of students with ASD will be evaluated.

State/territory responses

Australian Capital Territory

Education for children with disabilities

Proportion of students with disabilities in secondary education

796. At the February 2008 census there were 15 991 students enrolled in secondary education at ACT public schools. 540 of these students met ACT Disability Criteria. The percentage of students with a disability was 3.38 per cent of the student population.

Queensland

797. The Disability Discrimination Act (1992) and the Disability Standards for Education (2005) defines disability, in relation to a person, as:

- (a) Total or partial loss of the person's bodily or mental functions; or
- (b) Total or partial loss of a part of the body; or
- (c) The presence in the body of organisms causing disease or illness; or
- (d) The presence in the body of organisms capable of causing disease or illness; or
- (e) The malfunction, malformation or disfigurement of a part of the person's body; or
- (f) A disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or
- (g) A disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour.

798. The Anti-Discrimination Act (1991) defines impairment, in relation to a person, to mean:

(a) The total or partial loss of the person's bodily functions, including the loss of a part of the person's body; or

(b) The malfunction, malformation or disfigurements of a part of the person's body; or

(c) A condition or malfunction that results in the person learning more slowly than a person without the condition or malfunction; or

(d) A condition, illness or disease that impairs a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour; or

(e) The presence in the body of organisms capable of causing illness or disease; or

(f) Reliance on a guide dog, wheelchair or other remedial device; whether or not arising from an illness, disease or injury or from a condition subsisting at birth, and includes an impairment that presently exists; or previously existed but no longer exists.

799. Schools in Queensland meet their requirements under this legislation in a variety of ways and through various programmes, one of which is the Education Adjustment Program (EAP) for Students with Disabilities.

800. According to the World Health Organization's International Classification of Functioning, Disability and Health (ICF, 2001), the concept of *disability* is an overall term for the impairment (i.e. what a person *has* at the level of the body structure and function) and the experience of activity limitation and participation restriction for an individual (i.e. (i.e. what a person *does*).

801. For the purposes of identifying students with disabilities for the EAP the definition of disability encompasses both the *impairment* and the *activity limitation and participation restriction* for an individual in one or more of six disability categories: Autistic Spectrum Disorders (ASD), Hearing Impairment (HI), Intellectual Impairment (II), Physical Impairment (PI), Speech-Language Impairment (SLI) and Vision Impairment (VI). For further information on the EAP see: <http://education.qld.gov.au/students/disabilities/adjustment/index.html>.

802. In 2006-07, the Department commenced a \$34 million, four-year initiative to increase the number of teachers, teacher aides and therapists in state schools to support students with disabilities. An additional 95 teachers, 2,549 teacher aide hours per week and six therapists have been allocated across state schools.

803. \$3.2 million was expended to enhance special education facilities through the fifth and final year of the \$50 million Building Inclusive Schools Program. The programme has upgraded and expanded facilities and services for students with disabilities.

804. In 2006-07 the textbook and resource allowance was expanded to include secondary-aged students in special schools. The year also saw the implementation of new service delivery guidelines for Prep-aged students with significant educational support needs. The guidelines help teachers to provide appropriate programmes and services to support these students.

805. The Department implemented a revised, centralised verification process to establish a consistent, statewide approach to identify students needing extra support.

806. The Students with Disabilities output incorporates the additional and targeted educational programmes and services for students with disabilities in special schools and state schools, ensuring that support is available for all students to achieve quality learning outcomes.

Measures	2006-07 MPS Target	2006-07 Est. Actual (MPS 07-08)
Quantity		
Number of state special schools	47	47
Number of students in special schools	2 900	2 950
Number of state schools providing:		
- special education units	314	324
- special education classes	147	138
- special education developmental programmes	36	33
Number of students with disabilities identified as needing specialist support who are enrolled in state schools. This measure excludes students enrolled in special schools.	14 800	15 282
Quality		
Number of students with disabilities who have:		
- achieved a Certificate of Post-Compulsory School Education	540	537
- completed 12 years of schooling	700	701
Satisfaction of parents with their child's (Note 1):		
- special school	92%	91.7%
- state school	84%	80.4%
Cost (\$)		
Average cost of service per student (\$)	25 899	25 557
State Contribution (\$'000)	365 476	369 639
Other Revenue (\$'000)	92 944	96 319
Total Cost (\$'000)	458 420	465 958

(Note 1: This measure relates to parents who have children with disabilities).

807. Parental satisfaction is one measure of the adequacy and effectiveness of support for children with disabilities (see table above).

South Australia

The proportion of children with disabilities in secondary education

808. The Term 3, 2008 school enrolment census reported that 8.8% of all South Australian students enrolled in secondary education had a disability.

809. 35 per cent of all reported students with disabilities are in secondary education (65 per cent primary).

The adequacy and effectiveness of support for children with disabilities aimed at enabling them to participate fully in and complete secondary education

810. A range of support options are available to students with disabilities in South Australia. This support may be delivered in a special school or unit, a special class in a mainstream setting or in a mainstream classroom. The majority of students with disabilities attend mainstream schools.

811. Children and students verified with a disability in South Australia are required to have a Negotiated Education Plan that outlines the student's strengths, difficulties, the intervention and support required and goals for learning.

812. The amount and the nature of the support will vary based on the educational, health and wellbeing needs of the student.

813. The South Australian Curriculum Standards and Accountability Framework provides the curriculum entitlement for all students including students with disabilities from birth to year 10 (~15 years of age).

814. Teachers are responsible for ensuring accommodations and modifications are made to the learning programme to enable students with disabilities to participate fully in their education.

815. In the senior years of secondary education, students with disabilities work towards achieving the SACE and/or Vocational Education and Training (VET) qualifications.

816. The Special Provisions in Curriculum and Assessment Policy within the SACE framework is used to support students with disabilities to complete this certificate.

817. SACE has recently been reviewed and the needs of students with disabilities in relation to participation and completion are being considered in all aspects of the redevelopment of the certificate.

818. Specialist programmes that support senior students with disabilities to transition successfully to adult life are provided by the Statewide Transition Centres and the State Disability Transition Program.

819. These programmes use the SACE and VET curriculum frameworks and focus on developing the student's life and employment skills.

820. In South Australia there is a system of local school management. Individual student data is gathered and analysed by individual schools to inform them of achievement and provide direction for planning and programming.

821. The effectiveness of specialist programmes can be judged by the fact that these programmes operate at full capacity.

Tasmania

822. 322 secondary school students in Tasmania currently access learning support through the Register for Students with Severe Disability. This constitutes 0.13% of the student population.

823. Support for disabled students includes:

- (a) Minor works and building modifications;
- (b) Transport assistance to and from school;
- (c) Assistive technology support;
- (d) Additional teacher allocation @ 0.2fte per student;
- (e) A per capita \$ amount, generally used to employ teacher aides - ranging from \$8063 per student to \$32 000 dependent on the student's level of need;
- (f) Braille and tactile production of curriculum materials;
- (g) Orientation and mobility instruction as required;
- (h) Auslan interpreter provision as required;
- (i) Support staff including guidance officers, speech and language pathology, special education advisors, social workers.

824. Year 12 completion rates for students with disabilities is very high, with some extending to a Year 13 to ensure completion of courses.

Victoria

825. The Victorian Government's Program for Students with Disabilities provides additional resources to schools to support students with moderate to severe disabilities. The percentage of Victorian government secondary school students in receipt of support through the Program for Students with Disabilities is 3.3 per cent. This compares to the primary school percentage of 3.4 per cent.

	February 2008 Total Enrolments (EFT)	February 2008 PSD Enrolments (EFT)	Percentage
Regular School Secondary Enrolments	223 331.1	3 173	1.4
Special School Enrolments (aged-equivalent)	4 247	4 247	100.0
Secondary School Totals (Regular and Special Schools)	227 578.1	7 420	3.3

February 2008 figures are reported - Figures are equivalent full time totals.

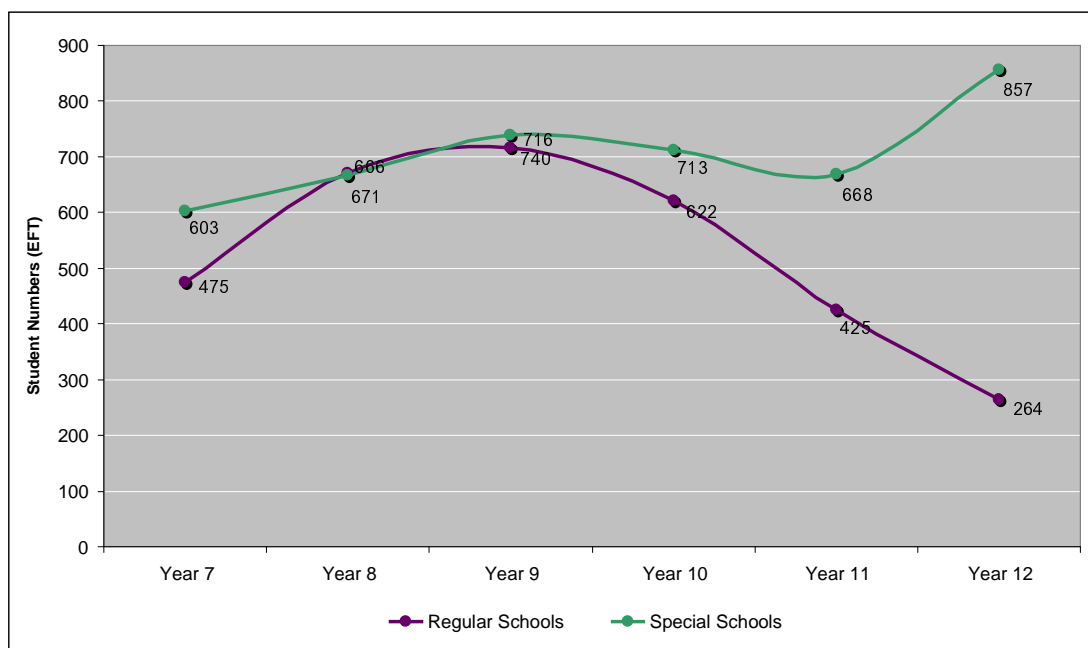
826. The above figures only include those students who have a moderate to severe disability and are supported by the Program for Students with Disabilities. A number of students with mild disabilities in Victorian government schools are supported through the following programmes:

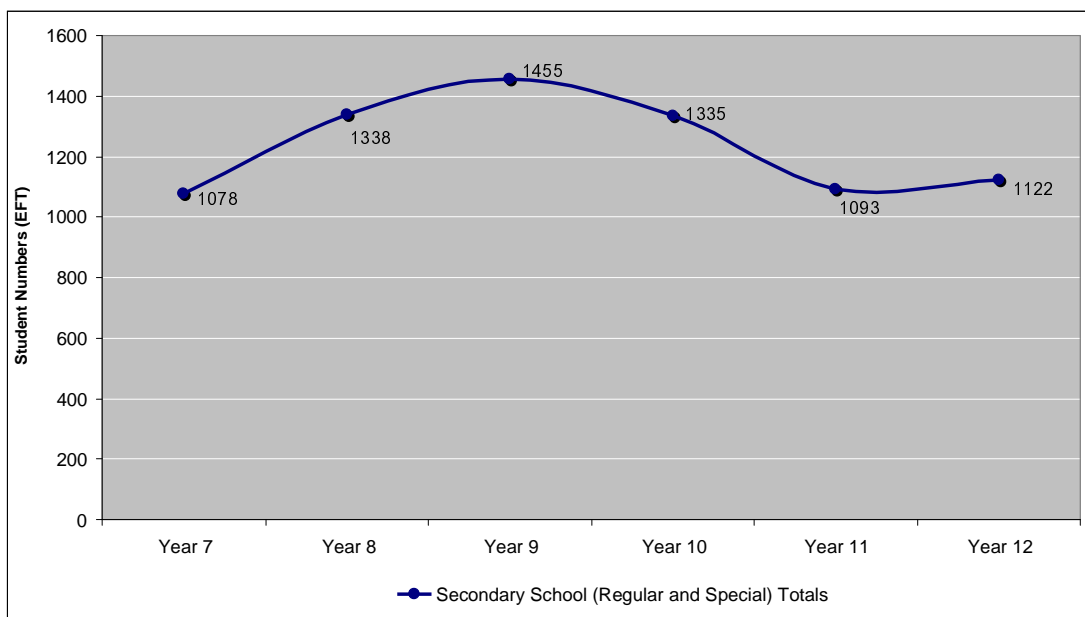
- (a) Visiting Teacher Service;
- (b) Psychologists;
- (c) Speech Pathologists;
- (d) Language Support Program.

827. The adequacy and effectiveness of support for children with disabilities aimed at enabling them to participate fully in and complete secondary education:

(a) The Victorian Government is committed to improving the learning outcomes of all students, by acknowledging their diverse needs and catering for different learning styles. A key element of this commitment is an emphasis on improving the learning outcomes for students with disabilities and additional learning needs, including strategies that ensure inclusive practices are in place in schools;

(b) Overall numbers of students supported by the Program for Students with Disabilities are maintained throughout the secondary school years, indicating a high retention rate for these students throughout secondary schooling.





Western Australia

Department of Education and Training

Proportion of children with disabilities in secondary education

Indicated Group	Education Support Setting	Mainstream Setting
Autism	25	260
Intellectual Disability	1 094	814
Hearing Impaired	23	59
Physical Disability	8	111
Vision Impaired	25	31
Not assigned	12	5

Total number of students with a disability: 2,433

Percentage of students with a disability: 5.8 per cent

Support for children with disabilities enabling them to participate fully in and complete secondary education

828. The Department is committed to making all students successful learners and provides a range of supports for those students with disabilities to ensure they are able to access an appropriate curriculum.

829. These supports include:

(a) State-wide Specialist Services and the Inclusive Education Teams provide support to students with a disability to access an appropriate curriculum to meet their individual needs within the school setting;

(b) To support students with autism, the Department has established two secondary autism units and another two are anticipated for the commencement of 2009;

(c) Through the Building Inclusive Classrooms strategy schools have access to funding to continue the role of the Learning Support Coordinator. This role has been developed to build the capacity of schools to cater for students with disabilities and learning difficulties. The role of the Learning Support Coordinator is to support colleagues in making teaching and learning adjustments and access appropriate resources to improve outcomes for these students;

(d) *Schools Plus* resourcing provides schools with additional teacher time and an education assistant allocation to support the school in providing an appropriate individual education plan for the students with a disability;

(e) The Curriculum Council of Western Australia through the Western Australia Certificate of Education (WACE) provides 55 Council developed courses for senior schooling. Of the 55 courses, 19 are specifically developed as preliminary (P units) which are accessed by students with disabilities working within Foundation of the Curriculum Framework. Student achievement is reported within a Statement of Results; and

(f) Collaboration between the Department and a range of government and non-government agencies has increased the participation of students with disabilities in community based work programmes. These partnerships assist students with disabilities in effective transition planning leading to connections for their school to work transition.

830. Professional learning is made available to staff in areas of need such as differentiating the curriculum, inclusive learning environments, strategies supporting students with disabilities in the mainstream classroom. To ensure equity of access, the Department is promoting the use of online learning support to staff irrespective of geographical location. The Department of Education and Training policies referred to above are available at http://policies.det.wa.edu.au/our_policies/.

I. Article 15. Cultural rights

Question 33. Please indicate the measures, legislative or otherwise, taken or foreseen by the State party to protect and promote ancestral rights and the traditional knowledge of indigenous peoples.

831. Aboriginal and Torres Strait Islander people are holders of traditional knowledge in Australia. Traditional knowledge encompasses ecological and cultural aspects. Transfer and maintenance of Aboriginal and Torres Strait Islander cultures occurs in diverse and overlapping ways. These pathways for community cultural maintenance include oral transfer (through language), through music and dance, visual arts and crafts, broadcasting and cultural activities. Transfer of cultural knowledge is dictated by cultural protocol, is inter-generational and is often prescribed according to gender.

832. Within Australia, traditional knowledge is being preserved and protected through a variety of mechanisms, and through traditional and contemporary art and craft forms, traditional stories, song and dance, body painting and costume creation, and language.

833. Also, in relation to access and benefit-sharing, Australia's *Nationally Consistent Approach* and implementing legislation requires that the use of traditional knowledge is undertaken with the with the cooperation and approval of the holders of that knowledge and on mutually agreed terms.

834. The combination of techniques used depends on the preferences of Indigenous communities. There are a number of Australian Government programmes that support the maintenance and continued development of Indigenous culture in communities. These programmes emphasise participation of members of Indigenous communities in cultural activities, transmission knowledge and skills across age groups, as well as supporting new forms of cultural expression, cultural exchange and projects to increase public awareness of Indigenous culture and knowledge.

835. The Australian Government also support the funding of traditional knowledge based databases and archive projects (written, audio and visual records, artworks, dance, song and music) so that Indigenous traditional knowledge can be recorded for current and future generations. This includes a series of guides produced by the Australian Government on protocols for appropriate ways of using Indigenous cultural material and interacting with Indigenous artists and communities.

836. The Australian Government also supports the maintenance and revival of Indigenous languages as living systems of knowledge through supporting a broad range of projects including documentation and recording of Indigenous languages, the development of language resources and language databases so languages can be retained and passed on to future generations. With Australian Government funding support, Indigenous radio and television services promote cultural events and provide Indigenous and non Indigenous audiences with immediate access to cultural and linguistic content.

837. Contractual arrangements are also used to provide legal protection for traditional knowledge.

838. In addition: (a) existing intellectual property legislation namely patents, designs, trade marks, plant breeders' rights, copyright, confidential information and unfair competition laws, provided the relevant legislative requirements are met; (b) more general legal concepts such as unfair enrichment, fraud and unconscionable conduct also have strong roles to play; and (c) within the legal systems of countries with common law traditions such matters may be dealt with through case law. This form of common law has an enduring and powerful impact while being open to further judicial evolution.

839. The Australian Government uses a whole-of-government framework in which to engage with and support Indigenous affairs within the economy. This overarching framework provides for the development of appropriate public policies which support the protection of traditional knowledge.

State/territory responses

New South Wales

840. As at June 2006, the NSW Government had entered into an Indigenous Land Use Agreement with the Arakwal People and was close to finalising further agreements with the Arakwal People and the Githabul People. The further agreements with the Arakwal People were entered into in December 2006 and the Indigenous Land Use Agreement with the Githabul People was finalised in 2007.

841. The processes under the NSW *Aboriginal Land Rights Act* had delivered land worth more than one billion dollars to NSW Aboriginal Land Councils as at 30 June 2006. In addition, under Part 4A of the NSW *National Parks and Wildlife Act* lands can be placed in Aboriginal ownership with a lease-back to the government of the national park. This process delivers employment, training and capacity building for indigenous people in relation to the national parks which are transferred.

South Australia

842. The SA Government is undertaking a review of the Aboriginal Heritage Act 1988. The review process includes extensive consultation with Indigenous people and representative bodies. The principles that will underpin the new legislation are:

- (a) Recognizing Aboriginal custodianship of cultural heritage;
- (b) Creating a strong framework for long term protection and management of Aboriginal heritage;
- (c) Enabling Aboriginal negotiation of agreements about heritage;
- (d) Embedding Aboriginal heritage considerations into the development and land management process;
- (e) Creating timely and efficient processes;
- (f) Creating certainty for all parties; and
- (g) Complementing the Native Title Act 1993 (Cth).

843. In addition to the review, the SA Government has in the past 12 months sought to engage Indigenous people to a greater extent in the recording and management of information relating to significant Indigenous sites (traditional, anthropological, archaeological and historical). This has included a programme of site recording and heritage conservation workshops, as well as a consultation programme with Indigenous custodians regarding the accuracy and management of site information already held in the prescribed central archive.

Tasmania

844. Tasmania is currently in the process of developing new Tasmanian Aboriginal Heritage Legislation. The new legislation will recognise, protect, assess and manage Aboriginal cultural heritage in Tasmania.

845. In 2005, Tasmania handed Crown Title land to the Tasmanian Aboriginal Community at Cape Barren Island and Clarke Island. Tasmania is the only state in Australia to address reconciliation through the transfer of land.

Victoria

846. Victoria has implemented new legislation to promote and manage the protection of Indigenous ancestral rights and cultural heritage:

(a) Victoria's new Aboriginal Heritage Act 2006 (the Act) came into effect on 28 May 2007. A key objective of the Act is to recognise, protect and conserve Aboriginal cultural heritage based on respect for Aboriginal knowledge, cultural and traditional practices. It recognises Aboriginal people as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage. An important principle of the Act is that Aboriginal human remains and secret sacred objects are owned by Aboriginal people who have traditional or familial links to those remains or objects. The Act recognises and promotes the role of Indigenous people in decision making processes pertaining to land and Aboriginal cultural heritage;

(b) The Act establishes for the first time in Victorian law a peak Indigenous body to provide expert and strategic advice on Aboriginal cultural heritage management to the Victorian Government. The Aboriginal Heritage Council consists of eminent traditional owners with extensive experience in cultural heritage. One of the Council's main tasks is to appoint Aboriginal organizations as Registered Aboriginal Parties (RAPs) across the State;

(c) RAPs have responsibilities for Aboriginal cultural heritage matters relating to their designated area of the State, irrespective of land tenure. They are a primary source of advice and knowledge relating to Aboriginal cultural heritage, negotiate the repatriation of Aboriginal cultural heritage that relate to their registered area, and advise on applications for harming Aboriginal cultural heritage;

(d) A key RAP role is to evaluate and approve, or refuse to approve, impact assessment plans that are prepared for high impact activities proposed in culturally sensitive areas. Plans must outline how a proposed development will be conducted in a way that avoids harm, or else minimises harm, to any Aboriginal cultural heritage that may be present within the area. A plan must be approved by the relevant RAP before the sponsor of the proposed development can receive any necessary statutory authorisation, such as a planning permit from local government, before works can commence.

Western Australia

Department of Culture and the Arts (DCA)

847. DCA clearly states its commitment to copyright protection in *Creative Cultures*, DCA's Indigenous Arts Policy Copyright protection of Indigenous knowledge is promoted through DCA publications pertaining to the funding application process. This includes funding handbooks and application forms. Applicants are specifically required to identify how they will negotiate appropriate copyright management prior to submitting funding applications.

848. DCA supports national copyright protection programmes such as *Artists in the Black* through Arts Law, the national advocacy body for artists' legal rights DCA supports the Australian Cultural Ministers' Council to initiate important projects such as the Indigenous Copyright Toolkit. When completed, this toolkit will be the subject of a major national implementation scheme. The toolkit explores indigenous rights under a number of areas including the Copyright Act.

ScreenWest

849. ScreenWest has identified the development of Indigenous film practitioners as a key aspect of its future plans, which directly promotes indigenous people and the traditional knowledge of indigenous people.

850. ScreenWest's Indigenous Policy was developed in consultation with the Western Australian Indigenous Filmmaker (WAIF) advisory group. ScreenWest's Indigenous Policy aims to promote and support Indigenous peoples in all areas of film including; the technical and administrative roles along with the roles of writers, producers and directors, to tell their own stories.

Protection

851. In respect of the protection of ancestral rights and the traditional knowledge of indigenous people, ScreenWest's Indigenous Policy recommended that Indigenous protocols be adopted by the WA Industry as a whole through the following measures.

852. For all projects that receive production funding support from ScreenWest - ScreenWest requires producers enter into agreements which protect traditional knowledge. The full clause is as follows:

ICIP MATERIALS

Wherever the Film makes direct reference to or incorporates ICIP Materials, the Producer shall, to the best of its knowledge, authority and ability, keep ScreenWest informed of all indigenous customs, laws, knowledge and traditions and its depiction in the Film and any ICIP Materials contained in the Film and the Producer shall use its best endeavours to respect and observe those ICIP Rights and will obtain from the owner of the ICIP Rights their informed consent for the use of the ICIP Materials in the Film and for Marketing the Film. If required by ScreenWest, the Producer will provide a report on the protocols addressed and the outcomes of such adherence.

“ICIP Materials” are those materials to which ICIP Rights apply.

“ICIP Rights” means indigenous cultural and intellectual property rights, being a reference to indigenous peoples rights to their heritage. Heritage comprises all objects, sites and knowledge, the nature or use of which has been transmitted or continues to be transmitted from generation to generation, and which is regarded as pertaining to a particular Indigenous group or its territory. The heritage of an Indigenous people is a living one and includes objects, knowledge and literary and artistic works which may be created in the future based on that heritage. Documentation of indigenous peoples’ heritage in archives, film, photographs, videotape or audiotape and all forms of media. Heritage includes:

- (a) Literary, performing and artistic works (including songs, music, dances, stories, ceremonies, symbols languages and designs);
- (b) Scientific, agricultural, technical and ecological knowledge (including cultigens, medicines and the phenotypes of flora and fauna);
- (c) All items of movable cultural property;
- (d) Human remains and tissues;
- (e) Immovable cultural property (including sacred and historically significant sites and burial grounds).

853. ScreenWest seeks to ensure the protocol document developed by the Indigenous Branch of Film Australia: A guide to protocols for filmmakers working with Indigenous content and Indigenous communities (Terri Janke, March 2006) is available to all WA Filmmakers.

854. ScreenWest also seeks to ensure Indigenous content and productions are assessed by Indigenous Script assessors.

855. ScreenWest and the Film and Television Institute (FTI) are in the process of creating a professional development workshop for the WA screen industry in Indigenous Cultural Awareness and Protocols, in line with ScreenWest’s Indigenous Policy.

Promotion

856. ScreenWest invests approximately \$600,000 directly into Indigenous filmmaking initiatives. Specifically in respect of the promotion of the traditional knowledge of indigenous people - in August 2008 ScreenWest launched Indigenous Communities Stories, a new initiative which is aiming to film 100 Western Australian Indigenous stories and digitally archive them so they can be viewed over the next 100 years and beyond. Indigenous Communities Stories will enable Indigenous communities across Western Australia to record, archive and maintain their culture through professional broadcast quality digital video recordings. Indigenous Communities Stories is a partnership between ScreenWest and the Film and Television Institute (FTI).

857. As noted above, ScreenWest is actively seeking to protect the traditional rights of indigenous authors. In respect of moral rights - ScreenWest seeks to ensure that producers adopt

the Screen Producers Association of Australia (SPAA) and the Australian Writers Guild (AWG) Accord position on moral rights, which is to acknowledge moral rights, but allow adaptations of works in accordance with standard industry norms.

858. ScreenWest is not aware if the State of Western Australia is adopting additional legislation than provided under the Federal Government's Copyright Act to protect the moral and material rights of indigenous authors.

Department of Indigenous Affairs

859. Aboriginal heritage sites provide Aboriginal people today with an important link to their culture and past. The Aboriginal Heritage Act 1972 provides for the preservation, on behalf of the community, of places and objects customarily used by or traditional to the Aboriginal people of Western Australia. Under section 17 of the Act, a person who excavates, destroys, damages or conceals or in any way alters an Aboriginal heritage site commits an offence unless prior permission has been obtained. It is also an offence to alter, damage, remove, destroy, conceal or deal with or assume possession of any object on or under a site.

Question 34. Please explain whether the State party envisages adopting legislation to protect the moral and material rights of indigenous authors.

860. The Australian Government may consider reviewing current legislative frameworks and options for the protection of Indigenous cultural and moral rights.

861. Under the current Intellectual Property systems within Australia (we do not operate under a *sui generis* system), we have the following legislations that can be used to protect traditional knowledge:

- (a) Copyright Act 1968;
- (b) Patent Act 1990;
- (c) Trade marks Act 1995;
- (d) Designs Act 1993;
- (e) Broadcasting Services Act 1992.

862. The Copyright Act 1968 confers exclusive economic (material) rights on Indigenous authors of original literary, dramatic, musical and artistic works as well as Indigenous makers of films and sound recordings and broadcasters. Works by Indigenous authors that are based on ancient images and designs can be original artistic works which attract copyright. The Copyright Act also recognises the rights of Indigenous performers to prevent unauthorized use of their performance.

863. Moral rights are conferred by the Copyright Act on Indigenous authors of literary, dramatic, musical or artistic works and cinematograph films.
