

First Nations Aged Care Commissioner Consultation

National Aboriginal and Torres Strait Islander
Ageing and Aged Care Council

Submission

July 2024



NATSIAACC



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National Aboriginal & Torres Strait Islander Ageing
and Aged Care Council



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National Aboriginal and Torres Strait Islander Ageing and Aged Care Council

About

National Aboriginal and Torres Strait Islander Ageing and Aged Care Council (NATSIAACC) is the national peak body for Aboriginal and Torres Strait Islander ageing and aged care.

NATSIAACC works to ensure that Aboriginal and/or Torres Strait Islander older people can access support and care that is culturally safe, trauma aware and healing-informed, and recognises the importance of their personal connections to community, Country and Island Home.

NATSIAACC is building a membership base of:

- Aboriginal and/or Torres Strait Islander community-controlled providers of ageing and aged care, and
- entities with an interest in culturally appropriate ageing and aged care services.

NATSIAACC's founding Directors are all leaders in Aboriginal and Torres Strait Islander ageing and aged care provision.

Our Vision

All Aboriginal and Torres Strait Islander people are thriving, healthy, strong, with ongoing cultural connections in their older years.

Our Purpose

NATSIAACC supports Aboriginal and/or Torres Strait Islander older peoples, their families, and communities to identify, engage in, advocate for, and lead systemic reform to embed culturally safe practices across the aged care and ageing sector.

With thanks

NATSIAACC thanks its members, stakeholders and other peak bodies for their valuable contributions to this submission and for generously giving their time to support older Aboriginal and/or Torres Strait Islander people.

Funding

NATSIAACC is funded by the Commonwealth Department of Health and Aged Care (the Department) and has been in operation for less than two years. In the context of the current aged care reforms and the need for extensive advocacy, input, and leadership in the sector, NATSIAACC is seeking increased and longer-term funding to provide the input and engagement required to ensure that the reforms deliver much needed support to Aboriginal and/or Torres Strait Islander older people and Elders.



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Introduction

NATSIAACC welcomes the opportunity to make a submission to the Interim First Nations Aged Care Commissioner on the role of the First Nations Aged Care Commissioner.

In formulating this submission, NATSIAACC has consulted with its members, which are largely aged care providers to Aboriginal and/or Torres Strait Islander people as well as other health and aged care peak organisations and stakeholders.

NATSIAACC welcomes the appointment of the Interim First Nations Aged Care Commissioner (the Interim Commissioner). We have valued the close relationship established between the Interim Commissioner and her Office. We consistently receive positive feedback from our members and stakeholders about the Interim Commissioner and her Office, particularly with respect to the genuine partnership approach and grassroots engagement with real people across Australia.

Royal Commission Recommendation

The Royal Commission into Aged Care, Quality and Safety (the Royal Commission) made the following recommendation:

Recommendation 49

An Aboriginal and Torres Strait Islander Aged Care Commissioner

1. By 1 July 2023, there should be within the System Governor a statutory role that involves the ongoing fostering, promotion and development of culturally safe, tailored and flexible aged care services for Aboriginal and Torres Strait Islander people across the country. The person appointed to this role shall be an Aboriginal or Torres Strait Islander person.
2. A person should be appointed by 31 December 2021 under interim administrative arrangements to perform relevant functions and exercise relevant powers.¹

¹ Royal Commission into Aged Care Quality and Safety, 2021, *Final Report: Care, Dignity and Respect – Volume 1 Summary and recommendations*, p 242.



Establishment of Aboriginal and Torres Strait Islander Aged Care Commissioner

NATSIAACC supports the Royal Commission recommendation for the establishment of an Aboriginal and Torres Strait Islander Aged Care Commissioner (Commissioner). In particular, NATSIAACC supports the role to be established permanently in statute.

NATSIAACC **recommends** the establishment of a statutory, permanent Aboriginal and Torres Strait Islander Aged Care Commissioner.

We note that the role will require the appropriate power, delegations and resources to support its proper establishment and delivery of functions into the future. This means that the initial establishment costs must properly fund an appropriate structure, with expert policy and program staff and appropriate administrative support. In this context, there are numerous options available for exploration, please see additional comments below.

Location of the Commissioner

NATSIAACC **recommends** the Commissioner be located in an independent office.

Our strong preference is for the Commissioner's Office to be separate from the Department of Health and Aged Care (referred to as the System Governor in the Royal Commission recommendation 49²), the Aged Care Quality and Safety Commission and the Inspector-General of Aged Care.

Clearly, however, there is also a need to have strong statutory information-sharing requirements between the Office of the Commissioner and the Department of Health and Aged Care, the Aged Care Quality and Safety Commission, and the Independent Health and Aged Care Pricing Authority.

Our members noted the importance of independence for the Commissioner, and the need to have sufficient resources dedicated to the Office to ensure cultural safety for staff and delivery of functions. Our members have also discussed the importance of ensuring the Office of the Commissioner is established and funded to succeed, and not limited by incorporation into or within the hierarchy another office. Members identified issues such as the need for independence to be able to take action and influence change, and provide stronger advocacy, coordination and influence cultural safety across Government.

As part of the transition to a permanent, independent Office, co-location or shared-services models may be worth considering (particularly from a budgetary perspective), so far as the Office can maintain its independence, confidentiality and the privacy of those with whom it engages.

² Royal Commission into Aged Care Quality and Safety, 2021, *Final Report: Care, Dignity and Respect – Volume 1 Summary and recommendations*, p 242.



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Consideration should also be given to whether resourcing for the Office of the Commissioner should be within the Australian Public Service (APS) structure (that is, staff are APS employees). This could support transfer of staff within the Office and the broader APS, and may support staff recruitment and retention. A governance structure which allows the Commissioner's Office to seek and obtain legal advice from the Australian Government Solicitor could also be considered.

Funding

The Office of the Aboriginal and Torres Strait Islander Aged Care Commissioner must have a fully resourced team to support the delivery of this significant role. There must sufficient Executive staff to maintain an office presence in Canberra while the Commissioner or other staff (depending on the structure) are conducting stakeholder engagement. There must be sufficient operational and administrative staff to support the Executive and maintain sustainability into the future. The Office must also be funded sufficiently to attract and retain experienced and qualified staff for all roles.

To minimise costs, information technology services and administrative services could be shared with a government department, or through a shared services model, as long as independence is assured, as discussed above.

NATSIAACC **recommends** the Commissioner to be fully funded and resourced to continue its current engagement and advocacy, including the current face-to-face consultations with Elders, older people, carers, families, communities and aged care providers. The Office of the Commissioner must also be fully funding for expansion to continue to meet increasing needs and fulfil its functions.

Priorities for the Commissioner

With respect to the priorities for the Commissioner, we provided our members with a list of options for consideration. We asked our members to rank the options. Our members ranked the priorities as follows:

1. Holding the aged care system accountable for achieving equitable outcomes for older Aboriginal and Torres Strait Islander people and providing culturally safe care.
2. Supporting the strengthening of the Aboriginal and Torres Strait Islander community-controlled aged care sector and workforce
3. Ensuring the voices of Aboriginal and Torres Strait Islander people accessing the aged care sector are shared with government
4. Monitoring the transformation of government to ensure it is implementing the four Priority Reforms of the National Agreement on Closing the Gap in relation to aged care
5. Working with the mainstream aged care system to ensure the cultural needs of Aboriginal and Torres Strait Islander Elders and older people are met.



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The following additional suggestions include input from our members:

- To maintain the Interim Commissioner's current focus on consultation and follow through with a link back to the community, with respect to concerns raised. While the current Interim Commissioner does this, there is a need for the function to be formalised to for future, and budgetary implications.
- The Commissioner should be actively involved in decision-making that supports equity and access issues for Aboriginal and Torres Strait Islander Elders and older people.
- Ensure Government accountability for implementation of Royal Commission [chapter 7 recommendations](#). To ensure functions and powers do not require ongoing amendment, the ability to actively engage in the Government decision-making with respect to the implementation of the recommendations should be broadly supported by the powers and functions of the permanent Commissioner. The role in the implementation of the Royal Commission recommendations can also form part of the Office of the Commissioner's annual work plan.
- In conjunction with NATSIAACC, collaborating with the sector, advocating for culturally safe models of care, consulting with Government on aged care funding and sustainability for aged care providers, irrespective of location and advocating for the needs of Aboriginal and Torres Strait Islander older people, families, communities, carers and workforce, including in assessments.

Members have also discussed that, on the whole, the Commissioner should have a focus on high-level strategic influence, rather than operational.

Powers of the Commissioner

We are of the view that the Commissioner must have powers to support the role, to ensure its independence and influence. On the whole, our members have requested that the Commissioner have 'teeth'. In our view, the ambit of these powers requires further consideration and consultation, particularly with respect to the implications of powers and how the powers would operate within the aged care system and interact with other offices. We suggest further consultation should include, but is not limited to, consideration of the following powers:

- Information sharing powers with the Department of Health and Aged Care, Aged Care Quality and Safety Commission and the Independent Health and Aged Care Pricing Authority, including the power to request information. Non-compliance with Commissioner requests could have an associated penalty.
- The power to issue public statements
- The power to make recommendations to Government
- The power to make recommendations and report to Parliament
- The power to require government agencies to consult with the Commissioner's office.



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To ensure its independence, we **recommend** the Office of the Commissioner must be able to hold its own administrative and financial powers and functions, and delegate those powers and functions internally.

Commissioner engagement and genuine partnership

NATSIAACC has received extremely positive feedback from our members on the Interim Commissioner's extensive engagement strategy and consultation with Aboriginal and Torres Strait Islander Elders and older people, carers, families, communities, providers and other organisations. This dedication, expertise and culturally safe engagement should be acknowledged, funded and supported on an ongoing basis for both the Interim Commissioner and the permanent Commissioner role.

Members have also noted the value of having an Aboriginal and Torres Strait Islander Commissioner. Our members have noted that engagement and partnership is fostered through consultation, listening sessions, and open communication with the Aboriginal and Torres Strait Islander community-controlled organisations and representative groups. Holding forums and yarning circles (in person and online) which respect cultural practices and traditions and continuing to speak with Elders and older people is an integral part of genuine partnership. It is also imperative to adopt a strength-based approach for engagement and to understand the needs and preferences of Elders and older people.

We have also received feedback that it will be important for the Commissioner to ensure that the voices of Aboriginal and Torres Strait Islander Elders and older people are included in decision-making processes. The Commissioner and team need to be visible, available, able to advocate and represent, and have REAL power to contribute to improving services and responses for Elders and older Aboriginal and Torres Strait Islander people in aged care.

The Commissioner should continue as a member of the Department of Health and Aged Care's First Nations Aged Care Governance Group. We note that there may also be an opportunity for the Commissioner to have a strong relationship with the soon-to-be established First Nations Health Governance Group, either as a member or as a guest to provide input on aged care matters.

Office of the Commissioner structure

We considered how the Commissioner role could be designed to cover the breadth and depth of issues required for reform in the aged care system, manage the cultural load, increase culturally safe access to the Commissioner. In this context, we considered options relating to the structure of the Office of the Commissioner.



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Broadly, our members supported the following two options:

- One lead Commissioner supported by up to two deputy Commissioners (different genders) to share the cultural load and increase culturally safe access. There will need to be sufficient amount of staff to support the commissioners, or
- One lead Commissioner, with staff to support culturally safe engagement

NATSIAACC **recommends** that further consultation should be conducted with communities to co-design the most appropriate and culturally safe structure for the Office of the Aboriginal and Torres Strait Islander Aged Care Commissioner. We are very much mindful that the Interim Commissioner has travelled extensively, conducted significant numbers of consultations, while also engaging with Government and advocating for Aboriginal and Torres Strait Islander people. It is an understatement to say that there is a lot of work to do, in a short period of time. To ensure the role and delivery of its functions are culturally safe and sustainable, there is a need to provide sufficient support to the Commissioner(s) to deliver and be successful. This means that innovative and culturally responsive structures should be considered. The input of the current Interim Commissioner and experience to date in the role will be an important aspect of any consultation on the structure of the Office of the Commissioner.



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