



# ECCDPP Probity Framework

Early Childhood Care and Development Policy Partnership (ECCDPP)

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Commonwealth Department of Education and SNAICC – National Voice for our Children

April 2025



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# About this document

This Probity Framework (the **Framework**) is intended for use by the Early Childhood, Care and Development Policy Partnership (**ECCDPP** or **Partnership**) to support shared decision-making through transparent and accountable processes, and to establish a framework that ensures perceived, potential and/or actual probity risks are identified and managed effectively.

## Purpose

The purpose of this Framework is to support the Commonwealth of Australia, as represented by the Commonwealth Department of Education (**Department of Education**) and SNAICC - National Voice for our Children (**SNAICC**) as the Co-Chairs and Co-Secretariat of the ECCDPP, with the identification and management of probity matters that may arise as part of Partnership decision-making and the commissioning of projects and activities from the ECCDPP research fund (Projects).

The Framework's objectives are to:

- Set out the governance arrangements for identifying and managing probity matters arising from activities in relation to the Partnership.
- Provide a comprehensive and accessible reference to the Probity Framework, offering guidance on its application as they relate to Partnership activities.
- Encourage and foster a culture in the Partnership that balances awareness, understanding and support of the need for probity to enhance good governance and administrative decision-making with the importance of embedding Aboriginal and Torres Strait Islander ways of knowing, being and doing, addressing power imbalances and facilitating genuine shared decision-making in alignment with Priority Reform 1 of the National Agreement on Closing the Gap (National Agreement).
- Provide a framework for demonstrating the application of probity principles and compliance with relevant Commonwealth Government priorities, policies and legislative obligations in relation to the expenditure of ECCDPP research funding.
- Promote and embed genuine shared decision-making, adapting standard processes as needed to ensure comprehensive engagement and collaboration among stakeholders.

This Framework clarifies roles and responsibilities of all Partnership Members in relation to potential probity risks. It is designed to identify, assess, mitigate and support the management of probity risks associated with Partnership activities, having regard to the key probity principles of accountability, transparency, impartiality, management of conflicts of interest, maintenance of confidentiality and achieving value for money.

## Scope

This Framework applies across Partnership governance levels, with probity responsibility held by all Partnership Participants.

Some aspects of the Framework specifically apply to ECCDPP Members (**Members**), who hold decision-making responsibilities, while others apply more broadly to Partnership Participants, which includes:

1. The Co-Chairs and Co-Secretariat;
2. The parties to the Agreement to Implement as identified in Schedule A to the same and their personnel (including employees, advisors, contractors, and consultants); and
3. Any other representative bodies (such as Coalition of Peaks Partners) or government organisations (including their partners), or any stakeholders who support and participate in the Partnership.

Unless otherwise specified, the framework is assumed to apply to all Partnership Participants.

This Framework must be read in conjunction with existing Government requirements, including the National Agreement on Closing the Gap<sup>1</sup>, *Public Governance, Performance and Accountability Act 2013* and Commonwealth Procurement Rules, with accommodation for changing circumstances through approved updates within agreed governance structures at Appendix B.

## How to read and use this Framework

This Framework provides a high-level overview of probity and how it operates in the context of the ECCDPP. This Framework defines relevant probity principles, explains each principle and outlines probity rich behaviour. It also identifies common probity risks relevant to the ECCDPP and proposes mitigation strategies.

Appendix B provides additional information and context on the governance arrangements underpinning the Partnership to ensure that all relevant parties understand the governance arrangements in place and the way recommendations are put forward, agreed and are referred to the appropriate authority.

While this Framework considers potential probity risks that may arise from Partnership activities, it is impossible to predict every scenario that may arise. If a potential probity issue arises that is not contemplated in this Framework, it should be raised with the Co-Chairs for consideration in writing via email. The Co-Chairs will use the core principles in this Framework to determine appropriate action and, where appropriate, seek specialist independent advice. Detailed, accurate records<sup>2</sup> of the probity risk, decision and action taken will be maintained by the Co-Secretariat.

This probity framework represents an opportunity for a new way of working in partnership with Aboriginal and Torres Strait Islander communities under the National Agreement, particularly as it relates to shared decision-making and procurement processes. Priority Reform 2 of the National Agreement commits governments to build the community-controlled sector through funding prioritisation policies. Priority Reform 3 of the National Agreement commits governments to systemic and structural transformation of mainstream government agencies and institutions and to change their 'business as usual' approach to decision-making.

This Framework has been developed in alignment with current Commonwealth procurement practices and legislative requirements, which can challenge genuine shared decision-making with Aboriginal and Torres Strait Islander peoples. The Probity Framework is intended to be an iterative document, evolving as the Partnership matures and updated in response to changes in the National

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<sup>1</sup> Details on the National Agreement are set out in section 2 of this Probity Framework.

<sup>2</sup> To align to the Department of Education legislative requirements the co-secretariat will maintain records as per the requirements under the Archives Act 1983.

Agreement and legislative requirements and will be regularly reviewed to ensure it remains fit for purpose.

## Introduction

Probity is the evidence of ethical behaviour, and can be defined as complete and confirmed integrity, uprightness and honesty in a particular process.<sup>3</sup>

There are probity risks within any decision-making forum. While risks can be managed and mitigated with the presence of good governance arrangements, the actual, potential or perceived conduct or behaviour of participants may give rise to probity risk.

Probity measures are context-driven, responding to risk (on the one hand) and achieving policy outcomes (on the other), having regard to the respective operating environment. Good probity practice can improve the quality of decision-making, as well as provide an enhanced basis for trust (acceptance of decisions). Probity measures are intended to be proportionate to risk and judged on a case-by-case basis, rather than an absolute or constant measurement.

In the context of government procurement, good probity practice helps to demonstrate that value with public money is achieved. In respect of non-financial initiatives which affect rights, probity helps to demonstrate that achieving public value through transparency and objectivity are key factors in decision-making.

The intent of the Partnership is to undertake genuine shared decision-making involving Commonwealth, State and Territory officials and Aboriginal and Torres Strait Islander representatives to drive policy change and strategic reform to positively impact the lives of Aboriginal and Torres Strait Islander children and their families. In this context, the Department of Education undertakes shared decision-making in accordance with the *Public Governance, Performance and Accountability Act 2013* (Cth) (**PGPA Act**).

Formal partnership and shared decision-making mechanisms provide a powerful opportunity to embed Aboriginal and Torres Strait Islander research, knowledge and approaches into government policies and decision-making. Successful shared decision-making requires adjustments to existing government decision-making processes and should extend beyond the Partnership, to achieve the government-wide transformation set out in the National Agreement on Closing the Gap.

To enrich the probity environment in the Partnership, Partnership Participants and supporting organisations should work together in an ethically and culturally appropriate way with clear roles and responsibilities to ensure decisions are made by consensus in an open and transparent manner. This includes ensuring that key artefacts (such as documents, minutes evidencing decision making, and relevant communications relating to Partnership activities) are recorded and appropriately maintained so decisions made by the Partnership can be explained clearly to stakeholders and the Department of Education meets its legislative requirements (refer to footnote 2).

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<sup>3</sup> Commonwealth Department of Finance - <https://www.finance.gov.au/>

The guidance provided in this Framework will help Partnership Participants ensure the activities of the Partnership are conducted in an ethical and defensible manner.

To ensure this Framework effectively supports the work of the ECCDPP, it is focused on the delivery of the Partnership's common goals (referred to as **the Partnership Goal** – see glossary of terms at Appendix A). It is the common interest and duty of all Participants (including advisors) to act to achieve the Partnership Goal.

The concept of **Partnership Goal** used within this Framework is aligned to the concept of the “public interest” (or “public value”) used in most probity frameworks. In meeting the Partnership Goal, Members will also meet the objectives set out in the National Agreement on Closing the Gap.

As a foundational governing document of the ECCDPP, this probity plan will be reviewed and updated as required, in parallel with the annual review of the Partnership's Agreement to Implement and the Operating Protocols.

In the event that Participants do not comply with the Probity Framework, such non-compliance will first be raised with the Co-Chairs for considerations and guidance on next steps. Co-Chairs may seek legal and probity advice in the course of any identified non-compliance.

## About the ECCDPP

### Strategic context

In July 2020, the Australian Government, all state and territory governments, and the Coalition of Peaks signed the National Agreement on Closing the Gap.

The National Agreement on Closing the Gap seeks to overcome the entrenched inequalities faced by Aboriginal and Torres Strait Islander people, pushing for equality in life outcomes for all Australians.

The National Agreement on Closing the Gap is built around four Priority Reforms to change the way governments work with Aboriginal and Torres Strait Islander communities, organisations, and people across the country. The Priority Reforms are listed below and are outlined [on the Coalition of Peaks website](#).

#### 1. Formal Partnerships and Shared Decision-Making

Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments, to accelerate policy and place-based progress on the National Agreement on Closing the Gap through formal partnership arrangements.

#### 2. Building the Community-Controlled Sector

There is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander people across the country.

#### 3. Transforming Government Organisations

Governments, their organisations and their institutions are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund.

#### **4. Shared Access to Data and Information at a Regional Level**

Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development.

As part of Priority Reform 1, five policy partnerships involving senior Commonwealth and state and territory officials and Aboriginal and Torres Strait Islander representatives were established across the key content areas of justice, social and emotional wellbeing, housing, early childhood care and development, and Indigenous languages.

### **Establishment, purpose and remit of the ECCDPP**

The ECCDPP was established in August 2022 under the authority of the Joint Council on Closing the Gap (**Joint Council**). It is a formal partnership between Aboriginal and Torres Strait Islander representatives and senior government officials from the Commonwealth and state and territory governments. The ECCDPP is accountable to the Joint Council via the Partnership Working Group (**PWG**).

At its first meeting, the ECCDPP formalised its Agreement to Implement, which is a formal document outlining member roles and responsibilities, emphasising shared decision-making, and encouraging effective data sharing and reporting, dispute resolution and resourcing. For the complete version, visit the Department of Education [website here](#).

More information on the governance arrangements for the ECCDPP can be found at section 3.5 and Appendix B of this Framework.

The primary function of the ECCDPP is to make recommendations to Joint Council about improving early childhood care and development outcomes for Aboriginal and Torres Strait Islander children and their families.

The ECCDPP focuses on issues and actions that will deliver progress towards Outcomes 2, 3, 4, 12 and 13 of the National Agreement on Closing the Gap, namely:

- Outcome 2: Aboriginal and Torres Strait Islander children are born healthy and strong.
- Outcome 3: Aboriginal and Torres Strait Islander children are engaged in high quality, culturally appropriate early childhood education in their early years.
- Outcome 4: Aboriginal and Torres Strait Islander children thrive in their early years.
- Outcome 12: Aboriginal and Torres Strait Islander children are not over-represented in the child protection system.
- Outcome 13: Aboriginal and Torres Strait Islander families and households are safe.

The Partnership notes that given the holistic nature of early childhood, care and development, it may also focus on issues and actions outside of these outcomes.



## ECCDPP membership

The ECCDPP is co-chaired by SNAICC and the Department of Education, and is comprised of one representative per state and territory government, five Aboriginal and Torres Strait Islander Coalition of Peaks representatives and five individual Aboriginal and Torres Strait Islander representatives.

A full list of ECCDPP Members can be found in the [Agreement to Implement](#).

In addition to formal membership, the ECCDPP structure includes additional representatives as Partners. In line with Clause 14 of the Agreement to Implement and to support the agreed scope of the Partnership and the breadth of the early childhood care and development sector (including child protection and welfare, and child and maternal health), additional representatives may be invited to attend the meeting of the Partnership in support of the work of the Partnership, with the agreement of the Co-Chairs.

To ensure coverage from relevant portfolios across education, child protection and family services, each government member is requested to invite an additional representative as a partner to attend meetings. The intent of this additional attendance is to support cross-portfolio engagement with policy areas relevant to the matters discussed. Commonwealth representation includes Department of Social Services (DSS) and the National Indigenous Australians Agency (NIAA).

To ensure equitable coverage across education, child protection and family services from the Aboriginal and Torres Strait Islander community-controlled sector, additional Coalition of Peaks Partners and/or Independent members may also be invited to attend the meetings when required.

## ECCDPP decision making

The ECCDPP is founded on the principle of shared decision-making, which enhances probity and is:

- By consensus, where the voices of Aboriginal and Torres Strait Islander parties hold as much weight as the governments’;
- Transparent, where matters for decision are in terms that are easily understood by all parties and where there is enough information and time to understand the implications of the decision;
- Where Aboriginal and Torres Strait Islander representatives can speak without fear of reprisals or repercussions;
- Where a wide variety of groups of Aboriginal and Torres Strait Islander people, including women, young people, elders, and Aboriginal and Torres Strait Islander people with disability can have their voice heard;
- Where self-determination is supported, and Aboriginal and Torres Strait Islander lived experience is understood and respected;
- Where relevant funding for programs and services aligns with jointly agreed community priorities, noting governments retain responsibility for funding decisions; and
- Where Partnership Members have access to the same data and information, in an easily accessible format, on which any decisions are made.<sup>4</sup>

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<sup>4</sup> Clause 32 of the National Agreement on Closing the Gap.

Within the ECCDPP, shared decision-making is implemented in a number of ways, including through consensus-based decision-making on matters for consideration by the Partnership.

Consensus-based decision-making requires equal participation and agreement on an outcome or course(s) of action. While consensus decision-making does not require uniformity of actions by all parties, it does require agreement on the outcome of an item and wording of a resolution.

In the ECCDPP context, a quorum is required for decision-making to ensure that consensus-based decisions are truly reflective of the Partnership. A quorum requires a majority of representatives from government and Aboriginal and Torres Strait Islander parties, not equalling less than a total of ten member representatives in attendance.

There is provision for Members to abstain from voting or participating in consensus-based decision-making. This arrangement is different to voicing an objection to a proposal or rejecting a decision. If a Member abstains from participating in a decision, this does not inhibit remaining Partnership Members from reaching consensus as long as quorum is achieved.

## ECCDPP supporting arrangements

The ECCDPP is both co-chaired and supported by co-secretariat arrangements undertaken jointly by the Department of Education and SNAICC.

The Co-Chairs are responsible for agreeing to meeting agendas, chairing meetings, and overseeing and monitoring the work of the Partnership. The Co-Chairs will support their respective membership to consult, pre-brief and build consensus outside of formal Partnership meetings.

SNAICC, as the Peak Co-Chair, is responsible for managing engagement with Aboriginal and Torres Strait Islander Coalition of Peaks and Independent representatives. Similarly, the Department of Education, as the Government Co-Chair, is responsible for managing engagement with government members and managing appropriate cross-government consultation, including appropriate engagement with the National Indigenous and Australians Agency (**NIAA**) to support the Partnership's engagement with the Partnership Working Group and Joint Council.

The Co-Secretariat provides policy, administrative and logistical support to the ECCDPP, including coordination, reporting and liaison in managing the Partnership's operations.

## ECCDPP research funding arrangements

In addition to internal funding allocations and resourcing within the Department of Education and SNAICC, there are two key sources of funding which have been provided to support the research functions of the Partnership.

### Funding administered by SNAICC

As part of the October 2022 Budget measure to establish the Partnership and the 2024-25 Mid Year Economic and Fiscal Outlook measure to extend the Partnership, the Australian Government has committed a total of \$21.6 million over six years (concluding 30 June 2028). Of that measure, \$10.6 million in grant funding has been provided to SNAICC in its function as co-chair of the Partnership.

Approximately \$1.4 million of the funding allocated to SNAICC is to strengthen the evidence base and investment in Aboriginal and Torres Strait Islander-led research relating to the children's sector. This allocation of funding is managed solely by SNAICC, in line with SNAICC's financial policies and delegations, with progress towards outcomes reported to the Department of Education as part of a broader Co-Secretariat grant agreement.

SNAICC administers research funding to conduct and commission independent research and data projects to support development of an Aboriginal and Torres Strait Islander evidence base to inform Partnership discussions and decision-making in line with the objectives of the Partnership.

While SNAICC's research funding grant is administered separately to the ECCDPP research fund (see below) and does not require collective Partnership approval for expenditure, decisions around expenditure are made in collaboration with Aboriginal and Torres Strait Islander members of the ECCDPP and/or the SNAICC Board and Council.

### Funding administered by the Department of Education – ECCDPP Research Fund

As part of the October 2022 Budget measure to establish the Partnership and the 2024-25 Mid Year Economic and Fiscal Outlook measure to extend the Partnership, the Australian Government has committed \$4.9 million over six years (30 June 2028) towards a research fund for the Partnership to commission research and engagement activities to support informed and evidence-based advice and recommendations.

The Partnership makes recommendations on research topics and proposes expenditure through consensus of all Members. The Department of Education, as the delegate of the research fund, will consider these recommendations and commission Projects from the ECCDPP Research Fund by procuring services consistent with the Public Governance, Performance and Accountability Act 2013 (Cth) (**PGPA Act**), as well as the Commonwealth Procurement Rules (CPRs). Grants are not provided through the ECCDPP research fund.

Projects will be driven by the Partnership's three-year strategic plan and annual work plans, which detail and support the priorities identified by the Partnership. This may include priorities and focus areas nominated by Peaks members, Aboriginal and Torres Strait Islander representatives, states and territories and the Commonwealth.

The allocation of money by the Department of Education will be undertaken in accordance with its legislative and departmental requirements. The Financial Delegate within the Department under the PGPA Act is the ultimate decision maker.

# Probity and the ECCDPP

The ECCDPP has been established as a shared decision-making mechanism to drive strategic reform and policy change to improve outcomes for Aboriginal and Torres Strait Islander children with a focus on Closing the Gap targets and outcomes. The Partnership's work as it relates to probity considerations can be broken down into two key functions:

1. Making recommendations, via Joint Council, for changes to government policies, legislation, operation and/or expenditure; and
2. Making recommendations on the expenditure of ECCDPP research funding.

Both these functions are undertaken within a clear governance framework (outlined in Appendix B of this Framework), noting that each jurisdiction also has their own governance and shared decision-making arrangements which may interact, overlap and/or need to be considered in relation to these two key functions. It is the responsibility of the Partnership to maintain and regularly review the governance arrangements to ensure their inbuilt checks and balances enhance ethical decision-making. The Partnership considers amendments to the Agreement, its membership, its operating protocols and its forward work plan once each year.

## Holding dual roles

As with similar community-sector or industry programs where sector-led decision-making occurs, the Partnership's policy design (including shared decision-making) includes an acceptance that a "clinical" model of probity segregation would be impractical and likely impede effectiveness.

Instead, the ECCDPP uses governance arrangements to manage tensions and risks, while still advancing a transparent shared decision-making model in line with legal and policy requirements.

In the administration of these two key functions, both SNAICC and the Department of Education play dual roles across the early childhood, care and development policy landscape and in the context of the ECCDPP.

In the broader policy landscape, SNAICC's mandate as a Peak Body is to advance policy, advocacy and sector development to drive policy, system and service changes that improve the lives of Aboriginal and Torres Strait Islander children and families.

In this same context, the role of the Department of Education is to support its Ministers by providing robust, evidence-based policy advice, including on funding decisions, and delivering policies and programs. The Department of Education also leads implementation on national policy and programs that support the early childhood education and care and schooling systems, and is the financial delegate for the ECCDPP research fund.

Similarly, both government and Coalition of Peaks members hold dual roles across the broader policy landscape and within the ECCDPP. Outside of the ECCDPP, government members are responsible for supporting their Ministers and governments in a similar manner to the Department of Education, while Coalition of Peaks members will hold similar mandates to SNAICC. In the ECCDPP, all members have an obligation to the Partnership Goal to drive policy reform to improve Closing the Gap outcomes for Aboriginal and Torres Strait Islander children.

## Establishing a probity rich environment

Probity risks arising from lapses in accountability, a lack of transparency, or a possible disconnect between roles and responsibilities among either Projects and Partnership Participants can impact the integrity of the ECCDPP and its activities.

There are steps the Partnership can take to ensure a probity rich environment and to lay a strong foundation for effective and ethical decision-making. With good governance arrangements in place including a clear articulation of the Partnership Goal, the likelihood of probity risks arising is low. These governance arrangements, as designed, enhance probity and demonstrate ethical decision-making. These include:

- Establishing and maintaining clear governance arrangements;
- Ensuring alignment of all decisions to the Partnership Goal;
- Commitment to transparency of shared decision-making and accountability; and
- Detailed and transparent record keeping.

Partnership Participants have a requirement to maintain confidentiality and are best guided by the expectations contained in the ECCDPP Operating Protocols and the ECCDPP Deed of Confidentiality, which is completed and signed by all ECCDPP Members and Partners when joining the Partnership.

## Establishing and maintaining clear governance arrangements

To enrich probity across the Partnership's activities, strong governance arrangements need to be in place to identify probity risks (or instances) so they can be managed appropriately. The maintenance of a governance framework that has shared decision-making embedded by design encourages objective decision-making. This approach is probity rich and deals with options for handling emerging issues and risks.

### How the ECCDPP brings this to life

The establishment of the ECCDPP in line with the National Agreement on Closing the Gap and within the Closing the Gap architecture means that, by design, the Partnership has strong and effective governance arrangements that minimise probity risks. The full governance arrangements for the Partnership are outlined in Appendix B of this Framework.

As well as the Agreement to Implement, the ECCDPP has a clear set of Operating Protocols that are updated when required, through agreement of all parties to ensure that governance arrangements and protocols remain current and fit for purpose within the Partnership's operating environment.

## Achievement of the Partnership Goal

### Context

The Partnership Goal is articulated in the Agreement to Implement and in the National Agreement on Closing the Gap, both of which outline the importance of consensus-based decision-making in relation to early childhood care and development policy to:

- Drive Aboriginal and Torres Strait Islander community-led outcomes on Closing the Gap;

- Enable Aboriginal and Torres Strait Islander representatives, communities and organisations to negotiate and implement agreements with governments to drive the implementation of all Priority Reforms and policy specific strategies to support Closing the Gap;
- Support additional community-led development initiatives; and
- Bring together all government parties, together with Aboriginal and Torres Strait Islander people, organisations and communities to the collective task of Closing the Gap.<sup>5</sup>

The concept of **Partnership Goal** used within this Framework is aligned to the concept of the “public interest” (or “public value”) used in most probity frameworks. The Partnership Goal is the common interest and duty of all Participants (including advisors) to act to achieve, and demonstrate meeting, the Partnership Goal. In so doing the ECCDPP Members will also meet the objectives set out in the National Agreement on Closing the Gap.

It is intended that the interest of the Partnership and the Partnership Goal will take precedence over the interest of individuals and /or individual organisations. It is important that Partnership Participants work together to manage any conflicts early and appropriately by declaring conflicts of interest to the Co-chairs.

To create a probity rich environment, all Partnership Participants must understand the Partnership Goal and adhere to it when undertaking business relating to the ECCDPP.

### How the ECCDPP brings the Partnership Goal to life

Despite not being explicitly stated, the Co-Chairs and the ECCDPP currently make decisions consistent with the Partnership Goal. The Partnership should formalise this element of decision-making, with the Co-Chairs taking active steps to ensure all Members and Participants understand the Partnership Goal and how it relates to the decision-making processes of the ECCDPP. This should include reinforcing compliance with the Agreement to Implement and National Agreement on Closing the Gap. This messaging should be shared with all Partnership Participants, including advisors and support staff.

When developing papers for meetings, the Co-Secretariat should outline how the item relates to the Partnership Goal. This should be reiterated by the Co-Chairs when calling for a decision both during meetings and out-of-session. These linkages to the Partnership Goal are best evidenced and demonstrated through effective record keeping including meeting the legislative record keeping requirements.

## Commitment to transparent shared decision-making and accountability

### Context

All ECCDPP activities must be conducted transparently in accordance with the Agreement to Implement and the National Agreement, with all Partnership Members being accountable for their actions in this context. There must be a commitment to transparent practices such as proactive identification of interests by all parties, clear goal articulation and information sharing.

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<sup>5</sup> Clause 31 of the National Agreement.

Accountability for the ECCDPP is to assist all Participants to be aware of their role, and the requirements for consensus and effective decisions. Accountability in this way also facilitates the most effective ways to comply with the Agreement to Implement and the National Agreement. All ECCDPP Participants are accountable for their actions, which means all key activities and decision-making should be recorded and maintained appropriately, including any resulting actions and, as above, demonstrating the linkages to the Partnership Goal.

Transparency helps ensure ECCDPP Members and Participants act with integrity, thus enhancing consensus decision-making, the advancement of the Partnership Goal, achievement of the National Agreement and the delivery of value for money.

## How the ECCDPP brings transparency and accountability to life

Through this Framework, the Partnership ensures:

- The roles, responsibilities and accountabilities of Partnership Members are clearly defined and understood; and
- All Partnership Participants are aware of key probity requirements that will assist them with understanding their role during Project development and delivery, and thus achievement of the Partnership Goal.

This Framework will be supplemented by regular and ongoing discussions about probity in the Partnership context with Members' advisors and any other support staff to ensure all potential Participants have the requisite skills and experience to carry out tasks assigned.

## Detailed and transparent record keeping

### Context

Detailed and transparent record keeping creates public assurance that shared decision-making is operating with integrity and actively addressing probity risks and issues as they arise.

## How the ECCDPP brings transparent record keeping to life

In the ECCDPP, standard record keeping includes:

- Meeting agenda, papers, record of meeting and actions;
- Working group agendas, papers, record of meeting and actions;
- Recording Partnership decisions made and the reasons for these decisions;
- Recording Co-Chair decisions made and the reasons for these decisions;
- Records of email correspondence between the Co-Chairs, Co-Secretariats and Members;
- Records of decisions made;
- Procurement records; and
- Recording declared perceived, potential and actual conflicts of interest including any updates to the same.

These records are shared with ECCDPP Members regularly at meetings and subject to the ECCDPP Operating Protocols.

The Partnership also publishes online a summary of outcomes from each meeting and annual work plans to enhance public transparency regarding the work of and decisions made by the Partnership.

Where required and as determined by the Co-Chairs, supplementary records will be kept for decisions or activities that may carry higher probity risk or sensitivity.

The Department of Education will retain information in accordance with National Archives of Australia (NAA) approved Records Authorities. Records Authorities are issued by NAA under section 24 of the Archives Act 1983. Official information must be retained in accordance with the retention periods defined in Records Authorities. The department will also adhere to relevant procurement record keeping requirements set out in paragraphs 7.2-7.5 of the CPRs.

## Additional probity considerations for the ECCDPP

As mentioned above, the Partnership's two key probity-relevant functions are to make recommendations for changes to government policies, legislation, operation and/or expenditure; and to make recommendations on the potential expenditure of ECCDPP research funding.

Across these two functions are potential tensions that benefit from additional consideration and detailed understanding of the potential probity risks and existing mitigation and management strategies. These are outlined below. It should be noted that different decisions will have different probity risks and tensions, and that a one-size fits all approach is not fit-for-purpose for the Partnership.

### Recommendations for changes to government policies, legislation, operations and/or expenditure

The list below identifies potential probity risks and tensions that may arise in relation to the Partnership's functions of making recommendations to government/s for changes to policy, legislation, internal operations and/or expenditure:

- Actual, potential or perceived Conflicts of Interest.
- Decision-making is not impartial or has been made with undue internal or external influence.
- Decision-making is not clear or transparent.
- Imbalance of power between government and Aboriginal and Torres Strait Islander representatives.
- Access to information that will benefit Partnership participants in other settings.
- Making decisions on the expenditure of ECCDPP research funding.
- Partnership Member's organisation may be funded through the ECCDPP research fund.
- Government processes which do not allow for the Partnership's decision or intention to be implemented.
- Limited time and resources to support collectively informed decision-making processes (to bring together the required diverse knowledge and to collectively problem solve and share decision-making).

Principles, risks, and mitigation/management opportunities in relation to these potential probity risks and tensions are provided below.



## Actual, potential or perceived Conflicts of Interest

### Principle

Conflicts of interest are not wrong in and of themselves. A probity rich environment can still be maintained where conflicts of interest arise, provided those conflicts are identified, declared, and effectively and transparently managed.

Conflicts of interest can be actual, perceived or potential, and a definition is included in Appendix A to this Framework. When a conflict of interest has been ignored, concealed, improperly managed, or has influenced actions or decision making, either deliberately or inadvertently, that conduct (rather than the conflict itself) creates a significant probity issue.

A material personal interest is one that can give rise to a real or apparent conflict of interest that could affect the ability to discharge duties. In the case of a Commonwealth officer there is a duty to report material personal interests in relation to the affairs of the entity they work for (section 29 of the PGPA Act).

### Probity risk

Given the nature of the dual roles held by the Department of Education, SNAICC, government members and Coalition of Peaks members (outlined on page 10), there is a probability for actual, potential or perceived conflicts of interest to arise. Conflicts of interest must be identified and managed effectively at all stages of the Partnership's decision-making to ensure the Partnership Goal is achieved.

### Mitigation/management

Regardless of the nature of the conflict of interest, appropriate governance will help to safeguard the integrity of a particular process or decision, while respecting the commitment of shared decision-making. Similarly, care needs to be taken to ensure that probity concerns and governance arrangements do not disproportionately or unnecessarily inhibit culturally appropriate shared decision-making and development in the sector or fail to consider their broader operating context and policy ambition.

Specific actions that can be taken to mitigate and/or manage to this risk include:

- All members, partners, and proxies must complete a Conflict of Interest Declaration prior to attending their first meeting. **(Implemented)**<sup>6</sup>
- Including information on conflicts of interest in the Operating Protocols. **(Implemented)**
- Calling for conflicts of interest at the beginning of each meeting in relation to the agenda. **(Implemented)**
- Clearly recording perceived, potential and actual conflicts of interest both generally and in relation to specific Partnership discussions and decisions. **(Implemented)**
- Providing the option for Partnership Members to abstain from discussion at decision-making at any time. **(Implemented)**
- In instances of actual conflicts of interest, Co-Chairs to request the Partnership Member with the conflict to abstain from participating in discussion or decision-making. **(Implemented)**

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<sup>6</sup> Implemented as part of the ECCDPP additional probity considerations refers to actions and activities already designed, practised and will be maintained throughout the ECCDPP.

- Where perceived or actual conflict of interest arises or is disclosed, co-chairs will make a decision to manage the conflict of interest and seek probity advice as required. (Implemented)
- Provide Probity briefings for the Partnership as required/and or requested. **(Planned)**
- Including the Framework and the application of the Partnership Goal as part of the on-boarding process for all new Partnership Members. **(Planned)**

It is the ECCDPP Members' responsibility to work with any of their support staff and advisors to appropriately manage any actual or perceived conflicts. As an example, this could include the support staff or advisor abstaining from providing the Partnership Member with advice on an issue.

It is important to note that for an official of a Commonwealth entity, disclosure duties are established under section 29 of the PGPA Act. Partnership Members from State and Territory jurisdictions may have similar legislated requirements.

An official who has a material personal interest that relates to the affairs of the entity must disclose details of the interest. A material personal interest is one that can give rise to a real or apparent conflict of interest that could affect the ability of an official to discharge their duties. Disclosure mitigates the risk of perceived conflict of interest in this instance.

## Decision-making is not impartial or has been made with undue internal or external influence

### Principle

Partnership decisions must be made in alignment with the Partnership Goal, focusing on ensuring improved outcomes for Aboriginal and Torres Strait Islander children in relation to Closing the Gap targets and outcomes.

Promoting impartial decision-making in which conflicts of interest (individual or organisational) benefits are recognised, recorded and managed and only relevant evidence is evaluated, using objective criteria and permissible policy factors is important to maintain a probity rich culture.

### Probity risk

Given the mix of Partnership membership, there is a risk of undue external influences in decision-making in relation to recommendations to government on changes to policy, legislation, operations and expenditure. Partnership Participants should ensure stakeholder viewpoints being presented to the Partnership are clearly disclosed and carefully considered.

Additionally, steps can be taken to identify and respond to potential undue influence to ensure it does not impact decision-making and the Partnership Goal.

The Commonwealth Closing the Gap architecture map (set out in Appendix B) shows the governance structures in place and demonstrates the oversight of each group. This governance structure reduces probity risks and enhances objectivity in decision-making, as well the achievement of the Partnerships Goal within the National Agreement on Closing the Gap.

In Appendix B, the diagrams and text highlight the transparency and accountability of all stakeholders and especially the Department of Education and SNAICC in the Partnership context.

This model, combined with the understanding and articulation of the Partnership Goal, reduces potential probity risks associated with partiality and conflicts.

## Mitigation/management

To ensure best practice, individual Partnership decisions should also be free of undue external influence. To enable this, the Partnership's decision-making process and the criteria for key decisions relating to a Project should align to the overall objectives of the Agreement to Implement and be a process that is fair, impartial and honest.

A significant portion of this risk is mitigated by:

- Consensus based decision-making, i.e. no one Member has consolidated power or influence over the decision that is made, which minimises the risk of undue influence. Consensus based decision-making is built on a foundation of robust discussion, negotiation and compromise between Partnership Members.
- A commitment by Partnership Members to comply with the Agreement to Implement and the ECCDPP Operating Protocols.

In addition to the mitigation and management strategies outlined above, the following specific actions can be taken to mitigate and/or manage this risk:

- Develop clear, agreed priorities and actions through the Partnership including priorities, annual work plans and 3-year strategic plan. **(Implemented)**
- Co-Chairs encourage all Partnership Members to consider how their organisational and/or community context may influence decision-making, noting this is not a risk in and of itself. **(Implemented)**
- Co-Chairs support the Partnership to understand what information is relevant in decision-making through Partnership briefings, papers and meeting discussions, centring Aboriginal and Torres Strait Islander ways of knowing, being and doing and ensuring that appropriate weight is given to Indigenous knowledge and evidence bases. **(Implemented)**
- The Partnership develop and circulate a set of objective criteria for discussing and making decisions on recommendations to be provided to Joint Council including clear linkages to the Partnership Goal. **(Implemented)**
- Co-Chairs provide guidance about decisions and recommendations through Partnership briefings, papers and meeting discussions to ensure they:
  - Are relevant and supportive of the Partnership Goal and ECCDPP objectives; and
  - Applied consistently in what is, and is perceived to be, an impartial manner. **(Implemented)**
- Where there is either actual external influence of a significant risk of comprised impartiality, Co-Chairs should direct the relevant Partnership Member to abstain from discussion and decision-making. **(Implemented)**
- Ensuring decision-making is conducted in accordance with the Operating Protocols, and in line with the Partnership Goal and annual work plans proposed above. **(Implemented)**
- Manage conflicts of interest in line with the section above.

## Decision-making is not clear or transparent

### Principle

Transparency ensures that decisions are open to scrutiny by interested parties and relevant oversight bodies. It involves documenting reasons for decisions and giving appropriate information to relevant stakeholders. In the case of the Partnership, this requires decision-making processes to be transparent to the Joint Council, Partnership Working Group, Commonwealth, State and Territory governments, the Coalition of Peaks, the Aboriginal and Torres Strait Islander community-controlled sector, and Aboriginal and Torres Strait Islander communities.

### Probity risk

While there are clear mechanisms in place to ensure that the Commonwealth Closing the Gap architecture (Appendix B) has visibility of the Partnership's decision-making processes and frameworks, there is a risk that this same transparency is not offered to the broader Commonwealth, State and Territory governments, the Coalition of Peaks and to Aboriginal and Torres Strait Islander communities.

Individual governments and jurisdictions may also have their own governance and shared decision-making arrangements with Peaks and communities in their jurisdiction, which may interact with or need to be considered when making a decision. For Commonwealth agency officials, there are also a number of transparency requirements that are listed in the CPRs.

Finding a balance between transparency of the ECCDPP deliberations, including consultation with key stakeholders and maintenance of confidentiality for some matters, will be an ongoing area of work for the Partnership.

### Mitigation/management

The Partnership provides a number of external communications to enhance transparency of its actions and decision-making processes. The following documents are (or will be) publicly available:

- Agreement to Implement – Available.
- Yearly work plans – Year 1 and 2 available.
- Meeting communiques – Available.
- Past Meeting dates – Available (future dates available upon request).
- Criteria for engagement – Available.
- 2023 Annual Report – Available.
- 2024 Annual Report – Agreement to be sought to publish as part of seeking Joint Council approval.
- 3 Year Strategic Plan – Available.
- Recommendations to Joint Council, where relevant agreement has been sought to make the recommendations public<sup>7</sup> – Consideration is being given to publishing these in the ECCDPP annual reports.

In addition to this, the following specific actions can be taken to mitigate and/or manage this risk:

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<sup>7</sup> Agreement to Implement, clause 24a.

- Develop a Partnership communication strategy that includes a key principle of ensuring transparency with external stakeholders, including Aboriginal and Torres Strait Islander communities. (Implemented)
- Share information on Partnership operation and decision-making to the public subject to confidentiality considerations. (Implemented)
- Demonstrate transparency through effective record-keeping (as outlined at section 4.2.4 above) that accurately captures deliberations and reasons for decisions. (Implemented)

## Imbalance of power between government and Aboriginal and Torres Strait Islander representatives

### Principle

Shared decision-making requires a balance of power between government and Aboriginal and Torres Strait Islander members. This is critical to the realisation of the Partnership Goal. For decisions to be truly representative of the Partnership, all Partnership Members must have equal balance of power when making any recommendations relating to proposed government policy, legislation, operation and expenditure.

### Probity risk

The supporting arrangements for the Commonwealth Closing the Gap governance architecture are predominantly managed by the Commonwealth Government. This creates a potential risk that Aboriginal and Torres Strait Islander ways of knowing, being and doing are not embedded in discussions, decisions and recommendations, and the right to self-determination is not upheld. The consequence of such a risk is detrimental to the integrity of shared decision-making generally and in the context of the ECCDPP, undermines the Partnership Goal.

### Mitigation/management

The Department of Education has set a strong foundation for shared decision-making and embedding Aboriginal and Torres Strait Islander ways of knowing, being and doing by providing SNAICC with a grant to support its Co-Chair and Co-Secretariat work. This includes specific funding to support Aboriginal and Torres Strait Islander member participation, internal capacity building and research funding to continue to strengthen Aboriginal and Torres Strait Islander evidence base. This foundation has been built upon by the ECCDPP, SNAICC, and the Department of Education working in genuine partnership to develop and implement Partnership documents and processes.

This risk can be further managed/mitigated through the following actions:

- Providing all Partnership Members with relevant information prior to meetings and ensuring sufficient time is allocated for their consideration. **(Implemented)**
- Clear communication and active listening during decision-making processes to ensure constraints and expectations on Partnership Members are well understood as part of any decision-making process. **(Implemented)**
- Providing Aboriginal and Torres Strait Islander members with the same option for proxy representation at meetings and working groups that is available to government members. **(Implemented)**

- Ensuring that meetings and other key dates are not scheduled in conflict with government or Coalition of Peaks commitments or Aboriginal and Torres Strait Islander events or days of significance that may impact a Partnership Members' ability to participate. **(Implemented)**
- Acknowledging and accommodating the breadth of professional, personal and community commitments held by Aboriginal and Torres Strait Islander Partnership Members **(Planned)**.
- Similar to cross-government consultation, providing the same opportunities, resources and time to consult across Aboriginal and Torres Strait Islander communities and stakeholders **(Planned)**
- Co-Chairs reiterating the importance of the four Priority Reform Areas of the National Agreement on Closing the Gap throughout discussion and decision-making. **(Implemented)**

## Access to information that will benefit members in other settings

### Principle

Shared decision-making requires sharing of information in good faith between government members and Aboriginal and Torres Strait Islander members to ensure informed decision-making. It is critical that the information provided in these settings is only used for the purpose for which it was shared and is subject to conflict-of-interest considerations.

### Probity risk

During ECCDPP discussions and deliberations, Partnership Participants may receive access to confidential information in relation to data, policy and legislation development, operations and expenditure across Commonwealth, State and Territory governments. There is a risk that this information could be disclosed or misused, therefore breaching confidentiality agreements.

### Mitigation/management

Specific actions that can be taken to mitigate and/or manage to this risk include:

- Ensuring Partnership Members enter into confidentiality agreements and comply with the information sharing requirements outlined in the ECCDPP Operating Protocols. **(Implemented)**
- Not using information for purposes other than for which it was shared and adhering to the principle of need to know. **(Implemented)**
- Providing clear agendas, discussion and records confirming the use of Partnership information discussed in meetings. **(Implemented)**
- Having internal firewalls in place within organisations to ensure the teams working on ECCDPP are separate to the teams working on related business (e.g. Budget bids and tenders). **(Planned)**
- Making information publicly available where possible and appropriate. **(Implemented as at section 4.3.3)**
- Where confidentiality is breached or information is disclosed or misused, co-chairs will seek legal or probity advice as required. **(Planned)**

## Making recommendations on the expenditure of ECCDPP research funding

As outlined in sections 3.6 and 4.1, the Partnership makes collective recommendations on what activities or initiatives should be commissioned through the ECCDPP research fund. Making recommendations in this context will include many of the same probity tensions and mitigation strategies as outlined in sections 4.3.1 to 4.3.5 above. The Framework should be read holistically,

with the information in this section designed to create additional assurances around the expenditure of ECCDPP funds.

The recommendation for expenditure of the ECCDPP Research Fund will be determined through consensus based decision-making and align with the Partnership Goal.

Procurement of services from the ECCDPP Research Fund will be managed by the Department of Education and will be undertaken in accordance with its legislative and departmental requirements. The Financial Delegate within the department under the PGPA Act is the ultimate decision maker.

The advice and recommendations of the ECCDPP may be used to inform the Financial Delegate's decision-making.

Where a decision is made by the delegate that doesn't align with recommendations made through consensus decision making by the Partnership, the delegate/Department of Education should be as transparent as possible with the ECCDPP on why this course of action was taken.

The below probity tensions may arise in relation to ECCDPP research fund expenditure decisions:

- A Partnership Member's organisation is funded through the ECCDPP research fund.
- Government processes do not allow for the Partnership's decisions or intentions to be implemented.
- Recommendations that align with the Partnership Goal do not readily demonstrate value for money as defined in the PGPA Act, Commonwealth Procurement Rules, and the Department of Education's Accountable Authority Instructions.
- Decision-making and/or procurement processes are not fair and equitable – either in perception or actuality.

### Treating potential tenderers for Projects equitably

One of the most complex issues that may arise in relation to the expenditure of the ECCDPP research fund relates to the dual roles held by all Members of the ECCDPP. As all Partnership Members hold dual roles across the broader policy landscape and within the ECCDPP and are often experts within the early childhood care and development sectors, there is a possibility that research funding will be provided directly to a Partnership Member organisation to deliver a research project, initiative or activity as the result of a Partnership recommendation. This is an actual conflict of interest that needs to be managed appropriately to ensure that equitable, transparent and probity rich decisions are made.

A conflict of interest may occur in multiple stages of the Partnership's decisions regarding the ECCDPP research fund. For example, actions and/or activities that create a conflict of interest issue may look like:

- **In the idea phase** - if a Partnership Member inappropriately advocates for the pursuit of a research priority that only their organisation or department can deliver for the sole purpose of receiving funding to conduct the research project.
- **In the design phase** – if a Partnership Member inappropriately advocates for the scope of work or delivery criteria to be designed in a way that potentially narrows the number of eligible tenderers or otherwise advantages their organisation.

- **In the decision phase** – If a Partnership Member inappropriately advocates for a decision to be made in favour of their organisation or against another organisation.
- **In the procurement planning phase** – If a Partnership Member inappropriately advocates for evaluation or assessment criteria to be amended to benefit their organisation.

There is also a risk that a Partnership Member participating in a procurement decision-making process will receive **an actual or perceived unfair advantage** as they may have had access to information that has not been made available to other organisations that may be potential participants in a procurement process.

If the interests of a Partnership Member are declared prior to a process commencing (and updated as and when required by the Co-Chairs), the conflict of interest can be managed to a level that is acceptable to the Partnership.

### Mitigation/management

The risks of an actual or perceived conflict of interest or an actual or perceived unfair advantage in a competitive process are largely managed through declaring interests to maximise transparency and ensure the consensus-based approach to decision-making is appropriately utilised by the Partnership. Under consensus-based decision-making, all Participants have an equal opportunity to share their views and to participate in robust discussion of the views and ideas of other Members. This approach minimises the risk of one Partnership Member, including either of the Co-Chairs, inappropriately driving the direction of decision-making or advocating for an outcome that would personally or professionally benefit them.

In addition to this strong foundation, there are a range of actions that Co-Chairs and Co-Secretariat have put in place throughout the idea, design, decision, procurement and implementation phases of Projects to mitigate and manage risks as outlined in the table below. A flow chart and checklist for enhancing probity throughout these processes is at Appendix D.

Phase	Mitigation and management activities (implemented)
Idea	<ul style="list-style-type: none"> <li>• Co-Chairs to check that discussion and decision-making on Partnership Priorities and associated research project proposals are in alignment with the Partnership Goal.</li> <li>• Co-Chairs and Co-Secretariat to implement effective management and documentation of conflicts of interest as outlined in sections 4.2.4 and 4.3.1 above.</li> <li>• Where required, Partnership Members (including proxies and/or advisors) with an actual conflict of interest, as determined by the collective ECCDPP, will abstain from participating in discussion and decision-making on research proposals.</li> <li>• Co-Chairs to request and document Partnership Members' early identification of whether their organisation or department would be likely to participate in the delivery of a Project or initiative as identified within this idea scope.</li> </ul>



<p><b>Design</b></p>	<p>All actions outlined in the previous phase, and:</p> <ul style="list-style-type: none"> <li>• Invite external experts to contribute to the design phase, including organisations that may also submit proposals to be funded for a Project to determine project scope and / or Terms of Reference.</li> <li>• ECCDPP development of clear evaluation / assessment criteria for potential suppliers including scope, timeframes and mandatory requirements that includes cultural knowledge and experience.</li> <li>• If Co-Chairs and/or Co-Secretariat agree it is required, Co-Chairs/Co-Secretariat to seek review and feedback on the Project's design, evaluation / assessment criteria and any mandatory / eligibility requirements proposed by the Department of Education.</li> <li>• Share, to the extent possible, information on the design process and opportunity to input, with external organisations that may be eligible to tender for the Project.</li> <li>• Where required, Partnership Participants (including proxies and/or advisors) with an actual conflict of interest, as determined by the Co-Chairs, will abstain from participating in detailed discussion and decision-making on the design of research proposals.</li> <li>• Ensure the Project's scope is clearly defined and agreed by the Partnership prior to transitioning to the decision phase.</li> </ul>
<p><b>Recommendation</b></p>	<p>All actions outlined in the previous two phases, and:</p> <ul style="list-style-type: none"> <li>• Where required, Partnership Participants (including proxies and/or advisors) with an actual conflict of interest, as self-identified and also determined by the Co-Chairs, will be asked to leave the discussion of their proposal and all other proposals that could potentially be competing with theirs for funding.</li> <li>• As part of the recommendation process to progress with a research Project, the following should be agreed and clearly documented by the Partnership: <ul style="list-style-type: none"> <li>○ Confidentiality protocols for sharing resources or engaging with non ECCDPP participants across Projects.</li> <li>○ What information that has been shared within the ECCDPP can be shared to external potential suppliers, noting that to the extent that is reasonable, information that has been shared with ECCDPP Members whose organisations may tender for the Project should be made available to other potential suppliers.</li> <li>○ External 'checks and balances' for the procurement process.</li> </ul> </li> </ul> <p><b>To ensure the principle of shared decision-making is upheld, the idea, design and recommendation phase of projects to be funded under the ECCDPP research fund must be undertaken by the ECCDPP as a collective. While particular elements of these stages may be led by the Co-Chairs and Co-Secretariat either jointly or separately, the entirety of the phase must be delivered collectively.</b></p>

<p><b>Procurement Planning</b></p>	<p>All actions outlined in the previous three phases, and:</p> <ul style="list-style-type: none"> <li>• Procurement to be led by the Department of Education in line with Commonwealth and department policies, processes and commitments including those under the National Agreement on Closing the Gap Priority Reform Areas, with regular reporting to ECCDPP Co-Chairs and Partnership.</li> <li>• The allocation of money by the Department of Education will be undertaken in accordance with its legislative and departmental requirements. The Financial Delegate within the department under the PGPA Act is the ultimate decision maker.</li> </ul>
<p><b>Implementation</b></p>	<p>As the administrator of the ECCDPP Research fund, the Department of Education will manage all aspects of the Project management, with assistance from SNAICC where relevant, and in partnership with relevant stakeholders, on behalf of the ECCDPP with regular updates provided to ECCDPP Members. The Department of Education and its relevant delegate must consider the spending in line with Australian Government policies and legislation, such as the PGPA Act, Commonwealth Procurement Rules, and Accountable Authority Instructions.</p> <ul style="list-style-type: none"> <li>• Where beneficial to the Project and achievable within timeframes, establishment of an ECCDPP Project Steering Committee / Advisory Group to guide the research and ensure it remains within scope.</li> <li>• Project reporting, invoicing and acquittals (as required) to be overseen by the Department of Education in line with departmental policies and processes.</li> <li>• If an ECCDPP Member is leading the Project, any requests for budget increases must be considered by the ECCDPP with the relevant Member abstaining from participation in decision-making. Any decisions will be subject to Department of Education delegate approval.</li> <li>• Where applicable, Co-Chairs to clearly delineate between the role of the ECCDPP Member organisation and the role of the individual ECCDPP Member in relation to related discussions and decision-making. This should be clearly documented by the Co-Secretariat.</li> </ul>

## Government processes which do not allow for the Partnership's decision or intention to be implemented

Formal partnership and shared decision-making mechanisms provide a powerful opportunity to embed Aboriginal and Torres Strait Islander research, knowledge and approaches into government policies and decision-making. However, in their current state, internal government structures, policies and processes are mostly not culturally responsive and can operate in direct opposition to Aboriginal and Torres Strait Islander ways of knowing, being and doing.

Internal government structures, policies and processes must be:

- Inclusive of Indigenous research and knowledge;

- Respect Indigenous [Cultural Intellectual Property](#) (ICIP) rights;
- Incorporate measures that highlight cultural strength and wellbeing; and
- Include a conscious understanding of possible deficit assumptions regarding conflicts of interest held by the Aboriginal and Torres Strait Islander community-controlled sector.

Successful shared decision-making requires adjustments in the surrounding environment to ensure that the power balances created within the Partnership extend to government decision-making more broadly.

There is a risk that the lack of cultural responsiveness within government structures could prohibit the progression of a Partnership decision or undermine the intention of this decision. Examples of this may include:

- The Partnership agreeing that a supplier has the unique skills, expertise and cultural authority to be engaged as a sole supplier on a project, while the Commonwealth government assessment criteria requires an open Approach to Market.
- The Partnership deciding a set timeframe for completion of a procurement process based on Joint Council timeframes and the time sensitive nature of the reform opportunity available that is not able to be met due to internal government approval processes.
- The Partnership agreeing to assessment criteria for a project that are not consistent with Commonwealth government assessment criteria.

## Mitigation/management

Government representatives will need to appropriately empower decision making structures through actions including, but not limited by:

- Ensuring internal decision-making, processes and approaches align with the Priority Reform Areas of the National Agreement on Closing the Gap.
- Consulting Aboriginal and Torres Strait Islander communities appropriately with due regard to confidentiality and being clear about how the results of consultation will be used.
- Providing appropriate time for communities to consider issues and provide input, taking into account community and cultural considerations regarding the appropriate consultation timelines.
- Ensuring consultation is targeted and does not duplicate previous consultation with that community (including consultation that another jurisdiction may have led).
- Promoting community-led approaches to project design.
- Centring cultural considerations including Aboriginal and Torres Strait Islander ways of knowing, being and doing when considering value for money outcomes on projects that impact Aboriginal and Torres Strait Islander people and communities.
- Centring Aboriginal and Torres Strait Islander definitions of success and measures of outcomes on projects that impact Aboriginal and Torres Strait Islander people and communities.
- Ensuring tender submission, selection and evaluation processes are accessible and inclusive of Aboriginal and Torres Strait Islander ways of knowing, being and doing, and align with CPR terms.

Probity risks associated with inconsistency in the exercise of delegations and accountability for financial decision making by Department of Education delegate could arise, for example, if the Department of Education delegate cannot or does not wish to make a decision consistent with ECCDPP decisions. This risk can be managed through:

- Adherence to the governance, reporting and requirements.
- Following the documented pathway for decision-making.
- Avoiding ad hoc decision-making.
- Partnership Members considering Department of Education requirements when making decisions and recommendations (and Department of Education advising on this).
- Department of Education exercising flexibility where possible to be responsive to decisions and direction from the ECCDPP.
- The Partnership Members committing to actions that are clearly recorded, including the consensus decision-making process.
- Ensuring there is equal participation and agreement on an outcome or course(s) of action.
- Delegate(s) must exercise independent decision-making, not act under dictation, and accept accountability for their decisions in manner that supports the primacy of the Partnership Goal.
- It is acceptable for the delegate to take into account relevant advice, including recommendations and preliminary decisions reached through consensus decision-making by the Partnership.
- Where a decision is made by the delegate that doesn't align with recommendations made through consensus decision making by the Partnership, the delegate/Department of Education should be as transparent as possible with the ECCDPP on why this course of action was taken.

### Partnership decisions which do not demonstrate value for money

As the ECCDPP research fund is comprised of public funds, it is critical to ensure that Partnership decisions promote the proper use and management of public resources.

Any decision-making process that involves a recommendation to commit public funding must demonstrate value for money. For the Partnership, demonstration of value for money is achieved when the ECCDPP uses a process which has identified the best way to achieve the Partnership Goal and in which tenderers can respond with the most effective proportional way, while considering efficient risk management.

Considering value for money is outlined in sections 4.1-4.8 of the [Commonwealth Procurement Rules](#). The Commonwealth Procurement Rules state that the officials responsible for the procurement must be satisfied that the procurement achieves a value for money outcome and should:

- a. Encourage competition and be non-discriminatory;
- b. Use public resources in an efficient, effective, economical and ethical manner that is not inconsistent with the policies of the Commonwealth;
- c. Facilitate accountable and transparent decision making;
- d. Encourage appropriate engagement with risk; and
- e. Be commensurate with the scale and scope of the business requirement.

In the context of the Partnership, the achievement of the Partnership Goal is central to demonstrating value for money.

When evaluating tenders (or similar), price is not the sole factor for assessing value for money and the rules outline the following additional considerations that would be relevant to the Partnership's decision-making:

- Quality of the goods and services;

- Fitness for purpose of the proposal;
- Potential supplier's relevant experience and performance history;
- Flexibility of the proposal;
- Environmental sustainability of the proposed goods and services; and
- Whole-of-life costs.
- In line with the Partnership Goal, the Partnership should ensure that cultural responsiveness, Aboriginal and Torres Strait Islander leadership and Aboriginal and Torres Strait Islander ways of knowing, being and doing are included as clear criteria to ensure 'fitness for purpose', 'relevant experience and performance' and 'quality' as outlined as indicators of value for money above.

The definition of value for money, under the Commonwealth Procurement Rules, must be the main driver in all procurement decisions. Rights-based considerations of value for money can better be implemented when the Partnership's decisions are consistent with Australia's human rights obligations, with reference to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

The following probity tensions in relation to value for money may arise in the course of the Partnership's work:

- There may be a tension between Commonwealth government and Partnership definitions of value for money. For example, thresholds of quality and fitness for purpose.
- The critical requirement to prioritise Aboriginal and Torres Strait Islander research and thought leadership on the research projects may lead to perception that procurement requirements are too restrictive.
- If a limited tender process is repeatedly utilised by the Partnership, there may be a perception that procurement processes are not sufficiently competitive or open for other organisations to have the chance to do business with the government.
- There may be a perception that public funds have been misused if the lowest cost provider is not selected in a limited or open tender process.

## Mitigation/management

The aim is for suppliers to make attractive and innovative proposals with the confidence that they will be assessed on their ability to meet clear evaluation criteria in line with the Partnership Goal.

### Defining the specifications

- The Partnership is to define clear and appropriate specifications for the deliverable for any procurement activity:
  - The specifications may be in the form of Terms of Reference or Statement of Requirement for a research activity. A clear definition of what will be provided to the ECCDPP will inform the procurement approach, the definition of value for money in the circumstance, and whether minimum mandatory requirements for supplier qualification are required.  
**(Implemented)**
- For individual research projects, when designing the research project and developing evaluation criteria:
  - The Partnership can clearly define its expectations in relation to 'fitness for purpose', 'relevant experience and performance' and 'quality' requirements and explicitly

communicate these requirements to potential suppliers. This will ensure expectations are clear from the outset and that all potential suppliers have access to the same information. **(Implemented)**

#### Determining procurement approach

To determine the most appropriate procurement approach for a project, the Partnership will consider the following factors:

- The specific requirements of the research project are satisfied and will inform the work of the Partnership
- Likely expenditure value and if value for money can be achieved through a particular procurement approach
- Project timeframes are compatible with the purpose of the project and any funding constraints, the Partnership's meeting schedule and annual reporting to Joint Council
- Commonwealth Government's existing procurement methods

A procurement's goals and objectives, the value of the procurement and the reasons for opting for a particular procurement process should all be clearly stated and documented by the co-secretariat. As stated throughout this Framework, the alignment of all decisions, including procurement, to the Partnership Goal is essential **(Implemented)**.

Wherever possible, the Partnership should make every effort to identify more than one potential supplier for each research project and inform the relevant Department of Education delegate of potential suppliers. If this is not possible, clear documentation on the efforts made and reasons for a direct source procurement should be kept in the recommendation to the delegate.

The relevant Department of Education delegate must ensure compliance with the financial management requirements of the PGPA Act to demonstrate effective and efficient use of funding before a decision is made to commit public money to a recommended project. The relevant Department of Education delegate should also comply with the requirements of the connected procurement policies, especially the [Indigenous Procurement Policy](#).

#### Defining value for money

These risks can be managed/mitigated through the development and endorsement of a clear definition of value for money considerations. As mentioned above, the definition of value for money, under the Commonwealth Procurement Rules, must be the main driver in all procurement decisions.

In the context of the Partnership, value for money considerations can include (but is not limited to) criteria for Aboriginal and Torres Strait Islander leadership, cultural responsiveness, and Aboriginal and Torres Strait Islander ways of knowing, being and doing, to ensure a procurement process and outcome that aligns with the Partnership Goal.

Decisions in relation to value for money must be clearly documented by the Department of Education as the party responsible for administering the ECCDPP Research Fund. **(Implemented)**

#### Defining mandatory supplier requirements

Given the purpose of the Partnership and the Partnership Goal, it does not give rise to any direct probity issues to include specific cultural knowledge, leadership or perspectives as mandatory considerations for the delivery of a research project funded by the ECCDPP research fund. However,

the Partnership should document the rationale for these requirements including clearly stating why each element is critical to the delivery of the project. These requirements, along with a high level overview of the rationale for them, should be included in either public procurement documents (if going to market) or within the Partnership's regular reporting to ensure transparency and accountability of decision- making (implemented and planned).

## Unforeseen probity issues

While every effort has been made to make this Framework comprehensive, the probity risks and sensitivities outlined above are not an exhaustive list, and the Framework is intended to be an iterative document that evolves to changing environments. There is always a possibility that risks that were not previously identified will arise during the course of Partnership activities. If this should occur, issues will first be raised with the Co-Chairs for consideration and guidance on next steps.

## Appendix A: Definitions and Glossary

For the purpose of this Framework, the following definitions apply:

<b>Advisor</b>	<p>Means:</p> <ul style="list-style-type: none"> <li>• Legal Advisor</li> <li>• Probity Advisor</li> <li>• Any other organisations or individuals who are not Members but provide advice or subject matter expertise at Partnership meetings.</li> </ul>
<b>Agreement to Implement</b>	The Agreement to Implement provides an overview of the ECCDPP's purpose, objectives, scope, and the roles and responsibilities of all Members.
<b>Co-Chair</b>	Means the appointed Department of Education and SNAICC representatives who are responsible for agreeing meeting agendas, chairing meetings, and overseeing and monitoring the work of the ECCDPP.
<b>Co-Secretariat</b>	Means the Department of Education and SNAICC support staff responsible for the development of Partnership documents and agendas.
<b>Coalition of Peaks</b>	Coalition of Aboriginal and Torres Strait Islander Community-Controlled Peak Organisations. The Coalition of Peaks is a representative body consisting of Aboriginal and Torres Strait Islander national and state and territory community-controlled peak organisations that work to improve life outcomes for Aboriginal and Torres Strait Islander peoples.
<b>Conflict of Interest (COI)</b>	<p>Refers to a situation where there are competing interests or personal interests of a Member that conflicts with the Partnership Goal and / or a Member's responsibility to act in the best interests of the Partnership.</p> <p>Competing interests may arise due to a Member's dual role in the Partnership.</p> <p>Personal interests include direct interests, as well as those of organisations a Member may be involved with or have an interest in (e.g. as a shareholder) and family and friends. A conflict can exist even if the member considers their decision making is not influenced by their organisational or personal interest, it must still be declared.</p> <p>A conflict of interest may be:</p> <ol style="list-style-type: none"> <li>1. <b>actual</b> – a Member is being influenced by a conflicting interest;</li> <li>2. <b>potential</b> – a Member could be influenced by a conflicting interest; or</li> <li>3. <b>perceived</b> – a Member could appear to be influenced by a conflicting interest.</li> </ol> <p>These situations present the risk that a Member will make a decision based on, or be affected by, these influences. It is important that Members work together to manage these conflicts appropriately.</p>



	<p>A material personal interest is one that can give rise to a real or apparent conflict of interest that could affect the ability to discharge duties.</p> <p>Reporting material personal interests is a duty under section 29 of the PGPA Act for all Commonwealth officials.</p>
<b>Department or Department of Education</b>	Means the Commonwealth of Australia as represented by the Department of Education.
<b>Deed of Confidentiality</b>	Before gaining access to certain Confidential Information, members and participants must sign a Deed of Confidentiality prepared by the Department of Education.
<b>ECCDPP / Partnership</b>	Means the Early Childhood, Care and Development Policy Partnership and references to “Partnership” have the same meaning.
<b>Framework</b>	Means this Probity Framework as amended from time to time.
<b>Joint Council</b>	Joint Council on Closing the Gap is the Ministerial Council on Closing the Gap, with representation from all levels of government and the Coalition of Peaks. Further details on Joint Council can be found in the Partnership Agreement on Closing the Gap 2019-2029.
<b>Partnership Participant</b>	<p>In this framework, a reference to a Partnership Participant or Participants means:</p> <ol style="list-style-type: none"> <li>1. The Co-Chairs and Co-Secretariat;</li> <li>2. The parties to the Agreement to Implement as identified in Schedule A to the same and their personnel (including employees, advisors, contractors, and consultants); and</li> <li>3. Any other representative bodies (such as Coalition of Peaks Partners) or government organisations (including their partners), or any stakeholders who support and participate in the Partnership.</li> </ol>
<b>Partnership Members OR ECCDPP Members</b>	In this framework Partnership Members or ECCDPP Members only refers to those with decision-making power in the ECCDPP, i.e. the parties to the Agreement to Implement as identified in Schedule A to the same.
<b>National Agreement</b>	National Agreement on Closing the Gap was signed by all Commonwealth and the Coalition of Peaks in July 2020. It sets out commitments for the Commonwealth to work together with Aboriginal and Torres Strait Islander peoples to overcome the inequality experienced by Aboriginal and Torres Strait Islander peoples and achieve life outcomes equal to all Australians.
<b>NIAA</b>	Means the Commonwealth of Australia as represented by the National Indigenous Australians Agency.

<b>Operating Protocols</b>	Operating Protocols of the Partnership are intended to operationalise the provisions in the <a href="#">Agreement to Implement</a> . It is a living document to guide all members and participants (e.g., for COIs) and can be amended at any point by agreement of the Partnership members.
<b>Partnership Agreement</b>	Partnership Agreement on Closing the Gap 2019-2029, signed by the then Council Of Australian Governments (COAG) and the Coalition of Peaks, setting out shared decision-making arrangements on the next phase of Closing the Gap.  COAG has been replaced by the National Cabinet but does not include representation by the Australian Local Government Association (ALGA) who are party to the National Agreement.
<b>Partnership Goal(s)</b>	Means the interest that all Members agree is the essential interest of the Partnership. It is considered as a duty to align with the Agreement to Implement and to meet the objectives of Closing the Gap as set out in the National Agreement. It is intended that the interests of the Partnership take precedence. Should there be competing interests or personal interests of a Member that conflicts with the Partnership Goal it is a Member's responsibility to act in the best interests of the Partnership. A conflict of interest is to be declared, recorded and managed.
<b>Project(s)</b>	Work commissioned by the Partnership from the ECCDPP Research Fund
<b>PWG</b>	Partnership Working Group
<b>SNAICC</b>	SNAICC, the National Voice for our Children, is the designated Peaks co-chair under the Coalition of Peaks.
<b>Value for Money</b>	<p>For the Department of Education, clearly defining value for money is important to highlight how its legal responsibilities have been met.</p> <p>Value for money decisions are the core rule of the CPRs and where a business requirement arises, officials should consider whether a procurement will deliver the best value for money, taking into consideration:</p> <ul style="list-style-type: none"> <li>• stakeholder input</li> <li>• the scale and scope of the business requirement</li> <li>• the relevant entity's resourcing and budget</li> <li>• obligations and opportunities under other existing arrangements</li> <li>• relevant Commonwealth policies</li> <li>• the market's capacity to competitively respond to a procurement.</li> </ul> <p>In the case of the ECCDPP, officials should also consider how the procurement process and outcome help to achieve the Partnership Goal, as explored throughout this Framework.</p> <p>In practice, the procurement approach should satisfy with the following considerations:</p> <ul style="list-style-type: none"> <li>• Aboriginal and Torres Strait Islander community-led governance is embedded in project design and delivery</li> </ul>

	<ul style="list-style-type: none"> <li>• Aboriginal and Torres Strait Islander knowledges, practices and theoretical frameworks are weighted equally to other types of evidence</li> <li>• Cultural protocols for research and engagement with Aboriginal and Torres Strait Islander communities are respected and observed</li> <li>• Indigenous Data Sovereignty Principles apply to the collection, analysis, storage and sharing of project research and data</li> </ul>
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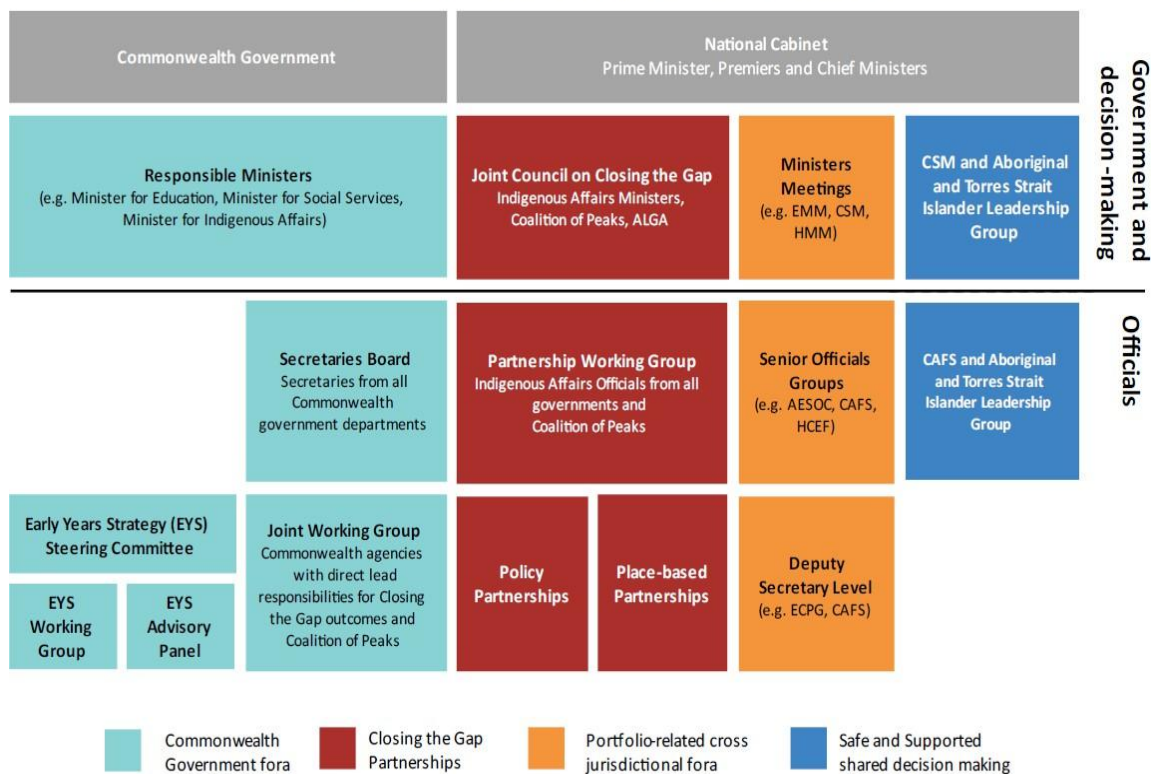
# Appendix B – Governance arrangements – National Agreement on Closing the Gap

## Overview

The Commonwealth Closing the Gap architecture map below shows the governance structures in place and demonstrates the oversight of each group, which supports objectivity in decision making and achievement of the Partnerships Goal within the National Agreement. This diagram and the two following highlights the transparency and accountability of all stakeholders and especially the Department of Education and SNAICC for the ECCDPP.

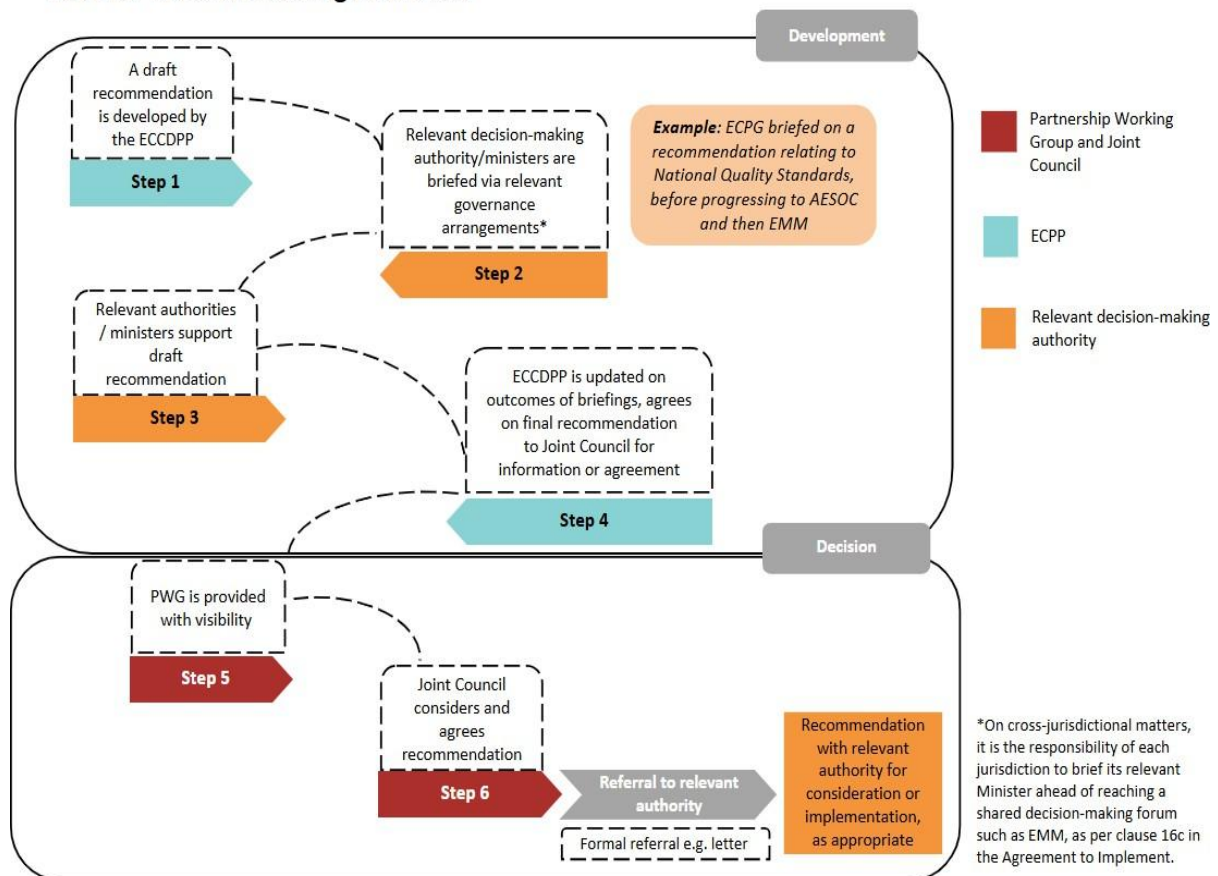
### Commonwealth Closing the Gap architecture map

*Commonwealth Closing the Gap architecture map that includes interactions with responsible ministers and Peak bodies across the early childhood care and development portfolio*



The ECCDPP decision-making flow chart below shows the steps required for a decision to progress from a recommendation developed by the Partnership to a recommendation with relevant authority for consideration or implementation.

**ECCDPP decision-making flowchart**



The decision making flow chart demonstrates the checks and balances involved in the decision making and implementation process. The process ensures recommendations are assessed through a multi stage process, which optimises probity and good governance, and is attached to all decisions and recommendations made by the Partnership.

## Joint Council

The Joint Council on Closing the Gap (Joint Council) meets at least twice a year and is supported by a Partnership Working Group (PWG) consisting of senior officials from governments and representatives of the Coalition of Peaks. The PWG develops and agrees its own Terms of Reference. The PWG develop and progress issues for upcoming Joint Council meetings, with the support of their Drafting Group who develop and progress papers for meetings. Additional working groups may be established for specific purposes to progress the work of the Joint Council. Working groups may be established by the Joint Council or PWG and may be time limited or ongoing. Working groups will develop papers and provide policy advice as required. Wherever possible, papers for the Joint Council should be developed in partnership. Items of a procedural or heavily administrative nature are to be delegated to the Secretariat to progress or dealt with out-of-session.

Joint Council is co-chaired by the Commonwealth government minister with responsibility for Indigenous Australians allocated on a rotational basis and an Aboriginal and Torres Strait Islander representative nominated by the Coalition of Peaks.

Membership of the Joint Council includes one Minister with responsibility for Closing the Gap nominated by each jurisdiction and one representative from the Australian Local Government Association; and Twelve representatives nominated by the Coalition of Peaks, with broad geographic and subject matter coverage. The co-chairs, on agreement, may invite other ministers and/or subject matter experts to participate in specific meetings or specific items, as appropriate. All members may be supported by advisors. Advisors are not members and do not contribute to the discussion unless invited to do so by the Co-Chairs.

The Joint Council makes decisions on the basis of consensus between government parties and the Coalition of Peaks. Consensus decision-making requires agreement on an outcome or course(s) of action. While it does not require uniformity of actions by all members, it does require agreement on the outcome of an item and wording of a resolution. If the Joint Council cannot reach agreement on a matter, it will refer that matter to the PWG for further work, for subsequent consideration by the Joint Council.

Decisions arising from the Joint Council are made public following each meeting through a jointly agreed communiqué.

## Partnership Working Group

The Partnership Working Group (PWG) reports to the Joint Council on Closing the Gap. PWG is supported by a Drafting Group and may establish additional working groups at its discretion (for example, for a specific analysis task). These may be time limited or ongoing and will report to PWG.

PWG meetings are co-chaired by a senior government official (corresponding to the jurisdiction providing the Joint Council government co-chair), and Lead Convenor or a representative of the Coalition of Peaks.

Membership of PWG is comprised of: a nominated senior official from each Government Party to the Partnership Agreement on Closing the Gap (Commonwealth, states and territories, and the Australian Local Government Associations); and representatives from the Coalition of Peaks.

PWG will make decisions on the basis of consensus between Parties wherever possible. Consensus decision-making requires equal participation and agreement on an outcome and/or course of action. Consistent with the Partnership Principles, equal participation includes identifying and addressing systemic and structural racism, discrimination and unconscious bias.

While consensus decision-making does not require uniformity of actions by all Parties, it does require agreement on the outcomes of an item and wording of a resolution. Parties will seek to maximise participation in PWG and support continuity in representation. Effective participation and shared decision-making will be enabled through adequate time for consultation and consideration of key decisions, taking an outcomes focus on the work of the PWG and commitment to open and transparent negotiation.

All papers for Joint Council consideration must be agreed by PWG before tabling at Joint Council. However, in the case of the Policy Partnerships, papers are provided to PWG for visibility only and proceed to Joint Council for agreement.

## SNAICC – National Voice for our Children

SNAICC is the national non-government peak body for Aboriginal and Torres Strait Islander children. We work for the fulfilment of the rights of our children, to ensure their safety, development, and well-being.

SNAICC has a dynamic membership of Aboriginal and Torres Strait Islander community-based child care agencies, Multi-functional Aboriginal Children's Services, crèches, long day care child care services, pre-schools, early childhood education services, early childhood support organisations, family support services, foster care agencies, family reunification services, family group homes, services for young people at risk, community groups and voluntary associations, government agencies and individual supporters.

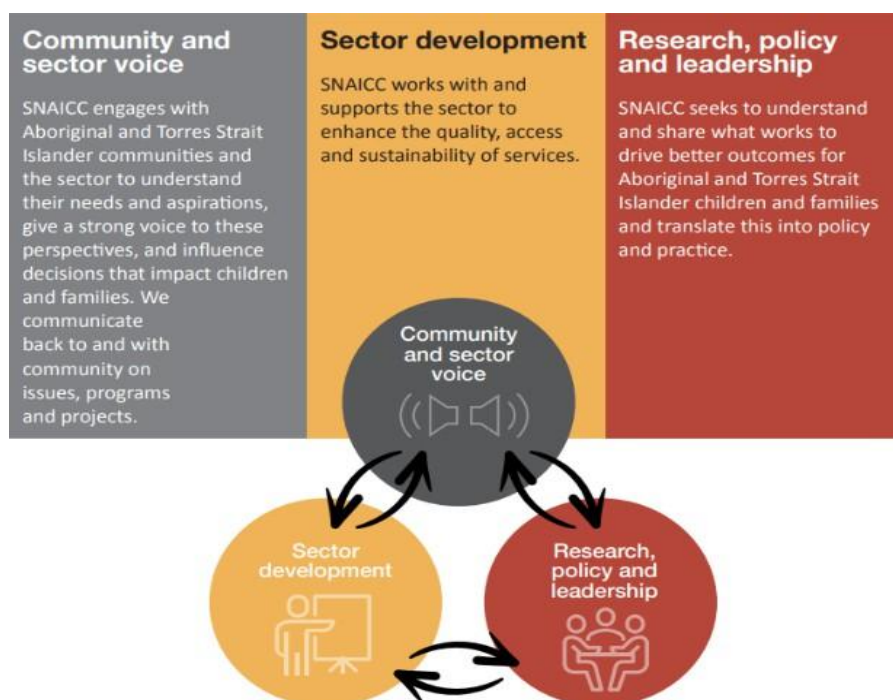
Since 1981, SNAICC has been a passionate national voice representing the interests of Aboriginal and Torres Strait Islander children and families. SNAICC champions the principles of community control and self-determination as the means for sustained improvements for children and families, which has been at the heart of SNAICC's work — whether on child protection and wellbeing or early childhood education and development. Today, SNAICC is the national peak body for Aboriginal and Torres Strait Islander children and the sector supporting these children. Our work comprises policy, advocacy, and sector development. SNAICC also works with non-Indigenous services alongside Commonwealth and State Governments to improve how agencies design and deliver supports and services for Aboriginal and Torres Strait Islander children and families.

SNAICC's work and impact focuses on reform by:

- strengthening and bolstering the children and families sector and services that support and work with Aboriginal and Torres Strait Islander children;
- harnessing the potential of Aboriginal and Torres Strait Islander communities to drive genuine and substantial improvements;
- amplifying the importance of self-determination by showcasing Aboriginal and Torres Strait Islander-led solutions and advocating for investment that allows Aboriginal Community Controlled Organisations (ACCOs) to lead on early childhood education, child wellbeing, development and safety responses.



SNAICC's work and efforts involve three interconnected roles to achieve its vision:



## The Early Childhood Care and Development Policy Partnership

The ECCDPP is both co-chaired and supported by co-secretariat arrangements run jointly by the Department of Education and SNAICC.

Both co-chairs are responsible for agreeing meeting agendas, chairing meetings, and overseeing and monitoring the work of the Partnership. Each co-chair supports their respective membership to consult, prebrief and build consensus outside of formal Partnership meetings.

SNAICC, as the Peak co-chair, holds primary responsibility for managing engagement with Aboriginal and Torres Strait Islander Coalition of Peaks and Independent representatives. Similarly, the Department of Education, as the Government co-chair, holds primary responsibility for managing engagement with government members and managing appropriate cross-government consultation, including appropriate engagement through the NIAA to support the Partnership's engagement with the Partnership Working Group and Joint Council.

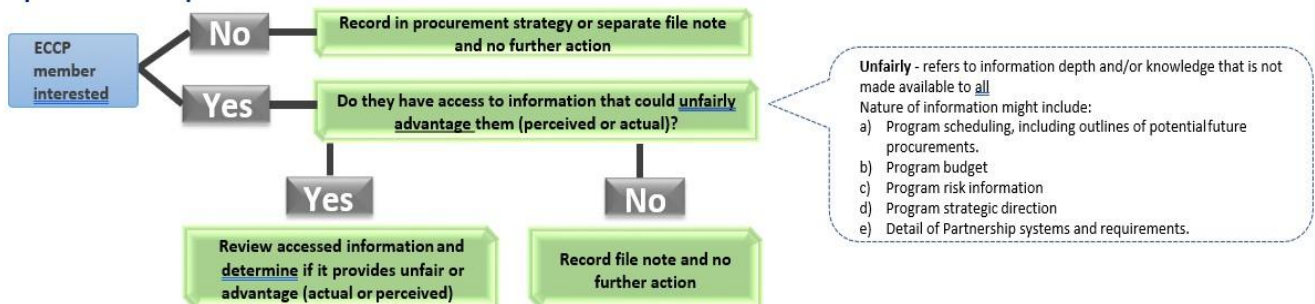
The co-secretariat provides policy, administrative and logistical support to the ECCDPP, including coordination, reporting and liaison in managing the Partnership's operations.

As part of the National Agreement on Closing the Gap, the Department of Education, as the Commonwealth lead for the primary early childhood Closing the Gap targets, co-chairs the ECCDPP, as represented by the Deputy Secretary, Early Childhood and Youth.



# Appendix C – ECCDPP Checklist – Managing probity when commissioning research projects

## Step 1: Partnership member involvement



## Step 2: information management required

