Chapter 16 of the National Report\textsuperscript{1} recognised that school-based education systems in Australia have historically been unable or unwilling to accommodate many of the values, attitudes, codes and institutions of Indigenous society and this has hampered Indigenous participation and achievement in education as defined by the wider Australian society.\textsuperscript{2} The chapter examined historical Indigenous participation rates in schooling and some of the inhibitions to Indigenous participation in schooling which were brought to the attention of the Royal Commission into Aboriginal Deaths in Custody ('RCIADIC'). The inhibitions examined included:

1. cultural differences;
2. health;
3. parental roles;
4. mobility of families; and
5. social conflict.

**Recommendation 72:** That in responding to truancy the primary principle to be followed by government agencies be to provide support, in collaboration with appropriate Aboriginal individuals and organisations, to the juvenile and to those responsible for the care of the juvenile; such support to include addressing the cultural and social factors identified by the juvenile and by those responsible for the care of the juvenile as being relevant to the truancy.

It must be noted that Recommendation 72 is not necessarily appropriate for implementation in legislation or policy in accordance with its terms. Nonetheless, this Chapter examines the extent to which, at a broad level, the recommendation has been implemented by the Federal, State and Territory governments.

In relation to education generally, reference should also be had to Chapter 23 (Educating for the Future) of this Report. A number of the recommendations addressed by that Chapter relate to many of the factors that were determined by the


\textsuperscript{2} National Report, paragraph 16.1.3.
RCIADIC to be inhibitions to Indigenous participation in schooling and are therefore indirectly relevant to this Chapter and Recommendation 72.

1. Implementation at the Commonwealth level

The Commonwealth government does not appear to have implemented Recommendation 72 of the RCIADIC.

While the Commonwealth Government has enacted certain legislation and introduced initiatives to address truancy levels generally, these do not appear to have been introduced in response to the RCIADIC Recommendation.

Overall, the legislative initiatives that have been identified as being aimed towards lowering truancy rates, appear not to have been established to provide support to Indigenous juveniles or their carers, or to address relevant cultural and social factors identified as being the cause of the truancy. Rather, the initiatives operate to make carers accountable for the juvenile’s attendance through punitive measures implemented through restrictions on welfare payments.

This type of action to address truancy levels was not considered advisable by the RCIADIC in the National Report. The National Report noted that, rather than penalising the child through the welfare system, the preferable action was to try to understand and solve the problem.

The Commonwealth Government has introduced some State based initiatives that appear to work in tandem with the legislative initiatives referred to above to provide support and encouragement to parents and carers to make sure their children are enrolled in, and attending, school. However, these initiatives do not appear to be directly aimed at addressing the social and cultural causes of Indigenous absenteeism from school. For example, the Improving School Enrolment and Attendance through Welfare Reform Measure (‘SEAM’) is an Australian Government initiative to encourage and support parents and carers to make sure that their children are enrolled in and attending school regularly, failing which social security payments may be impacted.

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3 For example, Part 3B (ss.123UE, 123XK, 123XL) of the Social Security (Administration) Act 1999 (Cth) provides that a person may become subject to the “income management regime” because the person, or the person’s partner, has a child who has unsatisfactory school attendance. Notably, the Social Security (Administration) Act 1999 (Cth) outlines the administrative principles that the relevant decision makers (usually the Secretary) must have regard to when administering social security law. Section 8(c) states that a relevant consideration is “the need to be responsive to the interests of the Aboriginal and Torres Strait Islander communities and to cultural and linguistic diversity”.

4 See, footnote 1, paragraph 16.7.4.

5 See, <http://www.humanservices.gov.au/corporate/government-initiatives/school-enrolment-and-attendance-measure-northern-territory#a5>. SEAM is funded under the Stronger Futures in the Northern Territory initiative which is part of the Commonwealth government’s $3.4 billion ten-year commitment to help Indigenous people in the Northern Territory. SEAM was trialled in selected NT and QLD communities from January 2009 to 30 June 2012. Changes have been made to the program based on findings from these trials. As a result the program is being introduced to 23 communities in the Northern Territory as part of the Australian Government’s Stronger Futures in the Northern Territory package.
In January 2014, the Remote School Attendance Strategy was introduced by the Federal Government to help parents and carers get children to school in certain remote communities across the Northern Territory, New South Wales, Queensland, Western Australia and South Australia. A significant number of school attendance supervisors and officers have been employed to work together with families to ensure that students stay in school. While this strategy does not appear to have been implemented directly in response to Recommendation 72, the aim of the strategy is to increase school attendance in Indigenous communities.

2. Implementation at the State and Territory level

There have been a number of strategies and policies implemented by the Tasmanian and South Australian Governments to provide support and address educational needs of Indigenous students, but none of these appear to have been driven in part or at all by Recommendation 72. However, the initiatives do recognise the need to engage those responsible for the care of Indigenous children.

2.1 New South Wales

In NSW, there exists specific legislation dealing with school attendance. The legislation includes measures for the Children’s Court or the Director-General of the Department of Education and Communities to direct that a conference takes place, convened by a trained conference convenor, where a child of compulsory school age is not attending school. Education officers are then required to make arrangements for the conference to occur and contact any other person(s) the convenor identifies who may be able to assist (including community representatives such as Indigenous elders). This contact occurs after the student and their parents or carers have agreed to seek such support to help resolve underlying issues. This legislation applies to

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9 Education Act 1990 (NSW), Part 5.

10 Refer to the information sheet published by the NSW Department of Education and Communities “Compulsory school attendance” available at

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all school age children, not just Indigenous students, and therefore does not appear

to have been specifically enacted to address Recommendation 72; although it does reflect some of the principles of that Recommendation.

In addition, the 1999 report on the NSW Government’s implementation of the Recommendations of the National Report\(^{11}\) noted in relation to recommendation 72 that, at that time, Recommendation 72 had been partially implemented through the provision of staffing and program support for Indigenous students including that:

1. 23 schools throughout NSW were funded to employ Aboriginal Education Resource Teachers and to implement the Aboriginal Early Language Development Program;

2. the relevant Department employed 30 Aboriginal Community Liaison Officers whose work is to foster greater linkages between the Indigenous community and schools;

3. the relevant Department employed 11 Education Officers (Aboriginal Community Support) who work on a range of student welfare issues including follow up of sustained absences; and

4. a number of support programs in literacy/numeracy, participation, motivation, career camps and cultural recognition were in place.

2.2 Australian Capital Territory

In the ACT, there exists specific legislation dealing with compulsory attendance of children of school age,\(^{12}\) however, it does not appear to respond to the suggestions in Recommendation 72, and does not apply specifically to Indigenous students.

More generally, the ACT Government has implemented a number of strategies and policies to provide support and address educational needs of Indigenous students, but none of these appear to have been driven in part or at all by Recommendation 72.\(^{13}\)

2.3 Queensland

Similarly, in Queensland there are a number of policies and legislative provisions responding to truancy generally and other initiatives in relation to improving

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\(^{12}\) Education Act 2004 (ACT), section 10A.

\(^{13}\) For example the ACT Indigenous Education Consultative Body advises the ACT Government on education and training for Indigenous people. There is also an Indigenous Policy and Organisational Practice section in the ACT Department of Education (refer to http://www.det.act.gov.au/teaching_and_learning/curriculum_programs/indigenous_education) which supports ACT public schools to implement the strategic directions of the Aboriginal and Torres Strait Islander Strategic Plan 2006-2009 and in particular coordinates the provision of an Indigenous Education Officers program.
Indigenous education outcomes and responding to truancy of Indigenous students. However, none of these refer to the primary principle of responding to truancy of Indigenous students by proving support in collaboration with appropriate Indigenous individuals and organisations.

2.4 Victoria

Likewise, Victoria has implemented a number of policies to combat truancy. The Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody Review Report prepared in October 2005 notes that the following policies have been implemented in response to Recommendation 72:

1. 3 Koorie Home Support Teams, comprising a Literacy Project Officer and Koorie Home School Liaison Officers have been employed to work with Koorie families and schools to reduce absenteeism;

2. 6 Home School Liaison Officers have been employed by the Department of Education & Training to complement existing Home School Liaison Officers. Since 2003, they have worked together with families and students to reduce the absenteeism of Koorie students in Victorian schools;

3. A Pathways Officer has been employed to work with Koorie students who are in their senior years of schooling. The role of the Pathways Officer is to help students find pathways to further education and employment after they finish school;

4. Since 2004, work has started on a Koorie Education attendance strategy called "It's Not OK to Be Away" which aims to increase the engagement between the Koorie community and schools on school attendance.

2.5 Western Australia

Similarly, Western Australia has legislation in place to address truancy, but it does not specifically apply to Indigenous students. The Government of Western Australia's

14 For example, the Cape York Welfare Reform Trial. This was a joint venture between the Queensland Government, Federal Government and Cape York Institute for Policy and Leadership. The Cape York Welfare Reform Trial ran for a number of years from 2008 in 4 Cape York communities. Welfare management orders were issued where individuals breached their welfare responsibilities, including where truancy occurred.

15 In 2013 the Education and Training Reform Act 2006 (Vic) was amended to make it an offence for the parent of an unenrolled or absent child to not to have a reasonable excuse for their child's absence from school (s2.1.1). S 2.1.2A of the Education and Training Reform Act 2006 (Vic) imposes one penalty unit for each day on which the duty is not complied with.


17 There is also legislation to prosecute parents for non-attending children. The Ministry of Justice has systems in place which involve Juvenile Justice Officers notifying Education Services of all truants.
2000 Implementation Report\(^\text{18}\) indicates that Recommendation 72 has been implemented through its development of the following strategies:

1. the Students at Educational Risk Strategy (known as ‘Making the Difference’), under which each district was allocated funding to appropriately plan and implement a Retention and Participation Plan;

2. the National Indigenous Literacy and Numeracy Strategy. Attendance was a key element of this strategy; and

3. an Aboriginal Student Tracking System which aims to reduce the number of students whose whereabouts are unknown;

### 2.6 Northern Territory

The Northern Territory has legislation in place which requires compulsory attendance at school.\(^\text{19}\) This legislation applies to all students and is not specific to Indigenous students.

Three programs have been implemented as part of the Stronger Futures in the Northern Territory package\(^\text{20}\). The School Enrolment and Attendance Measure (‘SEAM’) is relevant to the RCIADIC. SEAM is provided for under the Social Security Legislation Amendment Act 2012 (Cth). It places restrictions on welfare which link income support payments to school attendance. This has been implemented in 15 Northern Territory communities since the beginning of 2013\(^\text{21}\).

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\(^{19}\) Education Act (as in force 28 August 2013). S 20C provides that attendance at school is compulsory, and makes attendance the responsibility of the parent. S 23A allows a compliance notice to be issued to the parent (or child if living independently) where the extent of non-attendance at school breaches s 20C.

\(^{20}\) Two other programs implemented as part of the Stronger Futures in the Northern Territory, (available at: <https://www.dss.gov.au/sites/default/files/documents/09_2012/stronger-futures-booklet-jul2012.pdf>) package are:

1. School Nutrition Program. This 2007 program aims to boost school attendance and engagement by providing breakfast and lunch to school-aged children attending school in the NTER communities. This program was implemented in response to the June 2007 ‘Little Children are Sacred’ report, and although it does aim to reduce truancy, it was not implemented to satisfy Recommendation 72.
2. Every Child Every Day Initiative. This program aims to improve enrolment, attendance and participation to give every Territory child access to quality education. The program itself sets out a process which includes engaging with families to understand the reasons for absences and to assist and support the families in getting students back to school. The program also proposes compulsory face to face meetings, and development of a Family Responsibility Agreement. The program is implemented by a combination of resources, including Home Liaison Officers, AIEWs, Cultural Advisors, Attendance and Truancy Offices and school staff. This applies to all children as opposed to being specific to Indigenous children.


May 2015
Reports published by the Northern Territory Office of Aboriginal Development assessing implementation of the RCIADIC Recommendations regard Recommendation 72 as having been implemented in the Northern Territory, but also note that combating truancy is a continuing objective.\textsuperscript{22} No further evidence was found to suggest that Recommendation 72 has been directly implemented by the Northern Territory Government.