



# Aboriginal and Torres Strait Islander self-determination

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## **What is Aboriginal and Torres Strait Islander self-determination?**

Self-determination is an 'ongoing process of choice' to ensure that Aboriginal and/or Torres Strait Islander people are able to meet their social, cultural and economic needs. It is not about creating a separate Aboriginal and/or Torres Strait Islander 'state'.

The right to self-determination is based on the simple acknowledgment that Aboriginal and/or Torres Strait Islander people are Australia's first people, as was recognised by law in the historic Mabo judgement.

The loss of this right to live according to a set of common values and beliefs, and to have that right respected by others, is at the heart of the current disadvantage experienced by Aboriginal and/or Torres Strait Islander people.

Without self-determination it is not possible for Aboriginal and/or Torres Strait Islander people to fully overcome the legacy of colonisation and dispossession.

Self-determination was prescribed by the Royal Commission into Aboriginal Deaths in Custody (1987-1991) as being necessary for Aboriginal and/or Torres Strait Islander people to overcome their previous and continuing institutionalised disadvantage and disempowerment. In 1997, the 'Bringing Them Home' report recommended the implementation of self-determination in relation to the wellbeing of Aboriginal and/or Torres Strait Islander children and young people through the passage of national framework and standards legislation.<sup>1</sup>

## **Aboriginal and Torres Strait Islander self-determination in policy**

Self-determination is a Victorian Government policy commitment enshrined in legislation. Section 12 of the *Victorian Children, Youth and Families Act 2005*, for example, recognises the principle of Aboriginal and Torres Strait Islander self-management and self-determination as a key principle when determining decisions that concern Aboriginal and/or Torres Strait Islander children and families.

The *Victorian Charter of Human Rights and Responsibilities Act 2006* recognises that Aboriginal and/or Torres Strait Islander people hold distinct cultural rights, including the right to:

- enjoy their identity and culture
- maintain and use their language
- maintain their kinship ties
- maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.<sup>2</sup>

In June 2018, the Victorian parliament passed the *Advancing the Treaty Process with Aboriginal Victorians Act 2018* which is Australia's first ever treaty law that will create a framework for negotiating a treaty with Aboriginal and/or Torres Strait Islander people.

Over 7,000 Aboriginal and/or Torres Strait Islander Victorians (including Traditional Owners, clans and family groups) have engaged in the treaty process to date.

The Act sets out the process that will lead to treaty negotiations.

## **Self-determination in practice**

In many contexts including natural resource management, economic development,

health care, justice, education and care and protection for children, self-determination mean the transfer of power, control, decision and making and resources from government and the non-Aboriginal service sector to Aboriginal and/or Torres Strait Islander communities and their organisations. The realisation of self-determination in Victoria's child and family services sector, for example, means moving from a position where Aboriginal and/or Torres Strait Islander people have no control and limited influence, to one where Aboriginal and/or Torres Strait Islander people have full control of decision making regarding Aboriginal and/or Torres Strait Islander children and families.

Aboriginal and/or Torres Strait Islander employment in the Victorian public sector can support self-determination in practice by:

- Strengthening Aboriginal and/or Torres Strait Islander employment in senior positions, which supports the development of future Aboriginal and/or Torres Strait Islander leaders for the public sector and for Aboriginal Community Controlled Organisations.
- Ensuring that Aboriginal and/or Torres Strait Islander peoples' rights to culture are respected and upheld.
- Having a clear commitment to self-determination.
- Adopting a strong commitment to cultural safety which is reflected in the physical environment.
- Involving Aboriginal and/or Torres Strait Islander people in decision making.
- Ensuring that Aboriginal and/or Torres Strait Islander people have a voice regarding Aboriginal and/or Torres Strait Islander business.
- Consulting or partnering with Aboriginal and/or Torres Strait Islander people when designing services and programs for Aboriginal and/or Torres Strait Islander people.

## **Questions to assist you to ask yourself as a manager:**

- Do you understand the intent of Victoria's self-determination in policy?
- Are you and your staff supporting Aboriginal and Torres Strait Islander self-determination in practice?



## Useful links and other information

A video of Yorta Yorta man and artist Tirirki Onus speaking about the importance of self-determination

[The Victorian Government's commitment to self-determination](#)

[Information about Victorian Treaty legislation](#)

1. Source: Social justice and human rights for Aboriginal and Torres Strait Islander peoples, Australian Human Rights Commission, 2003
2. Source: [Charter of Human Rights and Responsibilities Act 2006, Section 19](#)