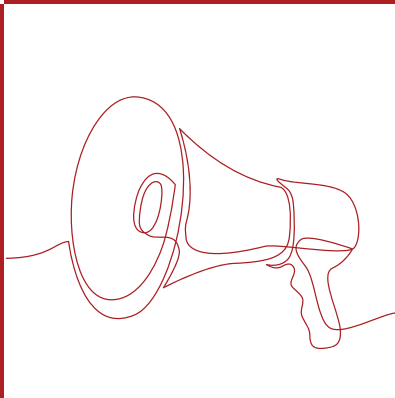
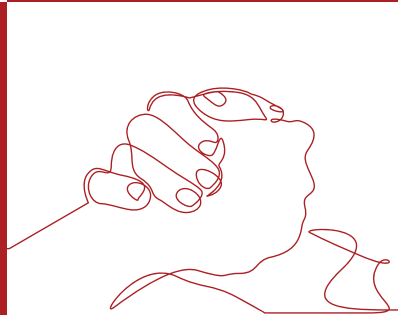


**SA UNIONS
SUBMISSION TO
THE INQUIRY INTO
RACISM, HATE
AND VIOLENCE
DIRECTED AT
ABORIGINAL AND
TORRES STRAIT
ISLANDER PEOPLE**



Background

The Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs adopted an inquiry into racism, hate and violence directed at Aboriginal and Torres Strait Islander People on the 4th of March 2026, following a referral from the Minister for Indigenous Australians, Senator the Hon Malarndirri McCarthy. Submissions to the inquiry are due by the 1st of May 2026.

The inquiry seeks to investigate the nature, prevalence and impact of racism, hate and violence directed at First Nations peoples, including the role of online platforms, the rise of ideologically motivated extremism, and the response of intelligence and law enforcement agencies. It will also examine the effectiveness of existing initiatives aimed at combating racism and reducing collective harm experienced by First Nations communities.

This inquiry could not be more important or timely. Evidence indicates that First Nations peoples are experiencing racism at alarmingly increasing rates. Data collected by Reconciliation Australia shows that 54% of Aboriginal and Torres Strait Islander people reported experiencing racism in 2024, compared to 39% in 2014¹.

Terms of Reference

The Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs will inquire into racism, hate and violence directed at Aboriginal and Torres Strait Islander people, including:

1. The nature, prevalence and impact of racism, hate and violence towards First Nations people, including trends over time.
2. The effect of online platforms on the reach, prominence and harm caused by racism and hate directed at First Nations people.
3. Initiatives that are effective in combating racism targeted at First Nations people and reduce individual and collective harm.
4. The threat posed by ideologically motivated extremism towards First Nations people and the role of intelligence and law enforcement agencies in protecting the community from that threat.
5. The effectiveness of avenues for reporting and responding to racism against Aboriginal and Torres Strait Islander people, including the consistency, timeliness and appropriateness of outcomes across jurisdictions and institutions.
6. Other matters related to racism, hatred and violence directed at First Nations people.

¹ (Reconciliation Australia, 2025)

Forward

SA Unions is the peak body for trade unions in South Australia. Through its affiliated organisations, it represents approximately 160,000 union members in all industries and sectors.

For over 170 years, unions have been on the front line of political, industrial and legal action to create protections for workers. Unions are engaged daily in the task of advancing safety, conditions and wages for workers at their workplaces.

As the peak body for unions in South Australia, SA Unions is acutely aware of the unique challenges faced by First Nations workers, as well as the systemic barriers that continue to limit access to secure, safe and meaningful employment.

Aboriginal and Torres Strait Islander peoples are the oldest continuing culture in the world, with over 65,000 years of connection to the land and waters of Australia. SA Unions recognises the enduring connection to Country held by First Nations peoples, and acknowledges the ongoing impacts of colonisation on communities, workplaces and institutions.

Racism directed at First Nations peoples is not only a profound social injustice, but a workplace issue that impacts safety, access to employment, job security and dignity at work.

In 2020, all Australian governments, alongside the Coalition of Aboriginal and Torres Strait Islander Peak Organisations, entered into the National Agreement on Closing the Gap.

However, subsequent reviews have found that governments have failed to move beyond “business-as-usual” approaches, with no consistent or systemic strategy to deliver the transformative change required.

First Nations peoples have consistently identified a lack of genuine power-sharing, exclusion from decision-making processes, and a failure of governments to recognise and act on community-led solutions as key barriers to progress. These failures have entrenched the very conditions the National Agreement seeks to address².

The issues faced by First Nations workers are not incidental. They are the result of deeply embedded structural and systemic barriers that limit access to work, undermine representation, and perpetuate the impacts of historical and intergenerational trauma.

It is not sufficient to tinker at the edges of reform while outcomes for First Nations peoples continue to deteriorate. Without structural change, the systems that produce inequality will continue to reproduce it. What is required is bold, root and branch reform that places First Nations people at the centre of decision-making and delivers real change for workers and communities.

² *ibid*

Given the timing of this submission to the inquiry, SA Unions sends our deepest condolences to Kumanjaya Little Baby's family, community and all those involved in the search for her.

The Problem: Structural Racism and Barriers to Safe and Secure Work

The barriers faced by First Nations workers are not isolated or incidental. They are the product of long-term entrenched structural inequality, systemic racism, historical trauma and current policy settings that have failed to deliver meaningful change. These barriers operate across the entire employment lifecycle – from education and access to work, to experiences within the workplace, outcomes from employment into retirement and through the broader social and economic conditions that shape workforce participation.

According to the 2022-2023 National Aboriginal and Torres Strait Islander Health Survey, the participation rate for First Nations people was 67%, of which 57% were employed and 9.5% were unemployed³.

The participation rate for the general population was approximately 67%, with an unemployment rate of 3.8%. By comparison, First Nations peoples experience an unemployment rate approximately two and a half times higher⁴.

This section sets out the structural barriers faced by First Nations workers, recognising that these challenges are not isolated, but operate across the full employment lifecycle.

Barriers to Entering Employment

Before considering the barriers faced by First Nations workers in entering employment, it is important to recognise the structural factors that prevent many First Nations people from participating in the labour force altogether.

In 2022-2023, 34% of First Nations people of working age were not in the labour force, meaning that they were neither employed nor actively looking for work.⁵

There are many reasons why a First Nations person may not be in the labour force, including lack of available and appropriate employment options, cost associated with job searching, need for further education/training, health concerns, disability and family/community responsibilities⁶.

Despite this, public discourse continues to be shaped by deeply misinformed and, at times, overtly racist assumptions about First Nations peoples and employment. Data from the *2023 Ipsos Indigenous Issues* survey found that 55% of respondents agreed with the

³ (Australian Institute of Health and Welfare , 2025)

⁴ (Australian Bureau of Statistics , 2024)

⁵ (Australian Institute of Health and Welfare , 2025)

⁶ Ibid

statement that “if Aboriginal people would only try harder, they could be as well off as other Australians”⁷.

This framing is not only inaccurate, but actively harmful. It shifts responsibility onto individuals while obscuring the structural and systemic barriers that shape labour force participation. In doing so, it reinforces deficit-based narratives and undermines the development of effective, evidence-based policy responses aimed at improving employment outcomes for First Nations peoples.

Higher unemployment among First Nations people is not well explained by historically overused justifications such as “job readiness” alone. It is the cumulative outcome of colonisation, dispossession, forced child removal, labour market exclusion, weaker schooling-to-work transitions, poorer health, housing insecurity, justice-system contact, geographic isolation, and ongoing discrimination in hiring, services and workplaces.

Geographical location is a critical factor shaping employment opportunities and the risk of unemployment. In 2022–2023, the proportion of First Nations peoples who were employed decreased consistently with increasing remoteness, from 68% in major cities to 38% in very remote areas—a pattern that has remained largely unchanged over the past decade⁸.

First Nations peoples are also significantly more likely to be outside the labour force in remote areas, with rates of non-participation approximately twice as high in very remote areas compared to major cities.⁹

While the majority of First Nations peoples live in urban and regional areas, the proportion of the population identifying as First Nations is significantly higher in remote and very remote communities, where employment opportunities are more limited and labour markets are comparatively thin¹⁰.

For First Nations people, living on country represents much more than a “lifestyle choice”. Land connects Indigenous Australia’s to their sense of self and wellbeing and represents part of their identity that has carried through generations¹¹.

The notion that First Nations Australians should simply move to areas where employment opportunities are more abundant reflects a deep misunderstanding of Aboriginal and Torres Strait Islander culture, and the importance and responsibility many First Nations people have to live on Country.

First Nations people continue to report unacceptable levels of racial discrimination in a range of contexts. There is credible evidence that discrimination affects both hiring and retention.

⁷ (Ipsos, 2023)

⁸ (Australian Institute of Health and Welfare , 2025)

⁹ Ibid

¹⁰ (Australian Institute of Health and Welfare , 2025)

¹¹ (Mohamed, 2015)

A widely cited field experiment in Australia found that applicants with distinctively Indigenous names received weaker responses for entry-level jobs than Anglo-Saxon applicants¹².

A later ANU-based labour-economics paper linked self-reported discrimination among Indigenous Australians with poorer labour market outcomes¹³.

More recently, Reconciliation Australia reported that younger First Nations adults experience racial prejudice at especially high levels, with 63% of 18–24-year-olds and 68% of 25–34-year-olds reporting at least one form of racial prejudice in the previous six months¹⁴. This is not just a social problem; it alters labour market access.

Educational attainment continues to play a significant role in shaping the transition of First Nations peoples into the workforce. Over the past decade, Year 12 attainment among Aboriginal and Torres Strait Islander people has increased substantially, rising by approximately 21 percentage points to 66%¹⁵.

Despite this progress, a significant gap remains. First Nations young people are still less likely to complete Year 12 than the general population, with national attainment rates sitting at approximately 86%¹⁶.

While SA Unions does not take the position that completion of Year 12 is the sole pathway to secure and meaningful employment, it is well established that First Nations peoples who complete Year 12, or obtain higher qualifications, experience stronger employment outcomes¹⁷. They are also more likely to work full-time and in higher-skilled occupations than early school leavers¹⁸.

The persistence of this attainment gap reflects broader structural inequalities within the education system and has a direct impact on the ability of First Nations peoples to access employment opportunities on equal terms.

Taken in totality, these factors demonstrate that employment outcomes for First Nations peoples are not simply a function of individual capacity or willingness to work. They reflect structural labour market constraints, particularly in remote areas, where the availability of secure, culturally appropriate and sustainable employment opportunities remains limited.

Barriers Within Employment

Securing employment does not, in itself, ensure fair or safe working conditions. For First Nations workers, structural barriers and systemic racism continue to shape workplace experiences, often undermining safety, job security and opportunities for progression.

¹² (Alison, Andrew, & Elena, 2011)

¹³ *ibid*

¹⁴ (Reconciliation Australia, 2025)

¹⁵ (National Indigenous Australians Agency, 2021)

¹⁶ (Australian Bureau of Statistics, 2025)

¹⁷ (Shirodkar, Foley, & Hunter, 2018)

¹⁸ *ibid*

Centring the experiences of First Nations Australians is essential to understanding the unique challenges they face in the workplace. The firsthand experience of Indigenous Australians is consistently minimised, downplayed or altogether disregarded in authoritative spaces that are aimed at improving safety, opportunities and conditions.

Recent survey data demonstrates the significance of cultural identity, with 86% of First Nations employees noting that it is important for them to identify as an Indigenous person at work¹⁹.

Concerningly though, only 40% of respondents report that their workplace was culturally safe, with most respondents reporting being in either a culturally unsafe (25%) or only moderately culturally safe workplace (35%)²⁰.

Lack of cultural safety at work has a direct impact on First Nations people's workplace experiences. Aboriginal and Torres Strait Islander employees in culturally unsafe workplaces are seven (7) times less likely to be very satisfied with their job, ten (10) times less likely to recommend their workplace and three (3) times more likely to be looking for a new employer²¹.

Racism in the workplace is a recurring reality for First Nations Australians, with the majority of Aboriginal and Torres Strait Islander employees (58%) experiencing some form of racism at work at alarming frequencies²².

Racism directed towards First Nations people takes many forms, with over half of Aboriginal and Torres Strait Islander employees reporting that they have experienced appearance racism (comments about how they look or should look) as well as being subject to inappropriate race-based comments and assumptions²³.

Additionally, racism is often experienced in overt ways, with nearly half (40%) of First Nations workers hearing racial or ethnic slurs or jokes about Aboriginal and Torres Strait Islander people at work²⁴.

Many Aboriginal and Torres Strait Islander workers report being subject to additional, often unrecognised and uncompensated, demands in the workplace because of their identity. This can include expectations to educate colleagues, contribute to or lead Reconciliation Action Plans (“**RAPs**”), and organise cultural events, alongside their substantive roles. These responsibilities are rarely formally acknowledged, resourced or remunerated, effectively placing an additional burden on First Nations workers that is not experienced by their non-Indigenous counterparts.

These expectations reflect a broader pattern of cultural labour being extracted from First Nations workers without recognition or compensation, reinforcing inequity within the workplace.

¹⁹ (Young, Gilber, Evans, & O'Leary, 2026)

²⁰ *ibid*

²¹ *ibid*

²² *ibid*

²³ *ibid*

²⁴ *ibid*

The psychological effects on First Nations workers of bearing this load can be significant, leading to what has been termed ‘identity strain’²⁵.

Identity strain represents a significant psychosocial hazard for First Nations workers, who often experience higher rates of burnout, absenteeism and chronic stress related to stress²⁶

The more we listen to First Nations workers and provide them with the space to share their experiences, the more we understand the role that lateral violence is playing in Australian workplaces.

Lateral violence refers to the harmful behaviours, such as bullying, gossiping and undermining, that occur as a response to ongoing systemic oppression²⁷.

Also referred to as internalised colonialism, lateral violence describes conflict that occurs within communities that have experienced long-term systemic oppression. It can arise where the impacts of colonisation, disempowerment and structural inequality manifest in harmful behaviours directed towards others within the same community, rather than towards the systems that produce those conditions²⁸.

For First Nations people, lateral violence can stem from historical trauma, such as the impacts of colonisation, dispossession and forced assimilation, social and economic disparities, limited access to resources and opportunities, and systemic racism contributing to frustration and power imbalances²⁹.

Lateral violence is a common barrier to many First Nations workers, whose opportunities for progression in the workplace, interpersonal relationships with co-workers and access to resources are diminished in comparison to non-Indigenous Australians.

First Nations workers are also disproportionately represented in forms of employment that are less secure and more precarious. Data from the Australian Bureau of Statistics indicates that a significant proportion of Aboriginal and Torres Strait Islander workers are employed on a part-time basis, while fewer are engaged in full-time work compared to the general population³⁰.

This pattern is compounded by the concentration of First Nations workers in industries and occupations characterised by casualisation, lower wages and fluctuating hours, such as community and social service and labouring occupations³¹.

The outcomes that First Nations workers experience are not incidental, they reflect systemic and structural failings within the labour market that position Aboriginal and Torres Strait Islander workers in less secure, lower-paid and less protected forms of employment.

²⁵ (Menzel, 2022)

²⁶ (Australian Human Rights Commission, 2012)

²⁷ (Business Queensland, 2024)

²⁸ *ibid*

²⁹ *ibid*

³⁰ (Australian Institute of Health and Welfare, 2006)

³¹ *ibid*

Broader Structural and Social Determinants

Workforce participation and employment outcomes for First Nations peoples are shaped not only by labour market conditions, but by broader structural and social determinants.

First Nations Australians face significant health gaps compared to non-Indigenous Australians, directly impacting employment opportunities and the ability to participate in the workforce.

First Nations people suffer much higher rates of certain chronic diseases than non-Indigenous Australians, while also having reduced access to medical and care facilities³².

Mental health is also a significant contributing factor to diminished health outcomes for First Nations people. Indigenous Australians indicate that good mental health is anchored on a feeling of belonging, having strong cultural identity, maintaining positive interpersonal relationships, and feeling that life has a purpose and value³³.

First Nations people experience family, domestic and sexual violence at alarmingly elevated rates than non-Indigenous people. The rates of violence against First Nations women are 34 times higher than other women in Australia, and up to 80 times higher in some parts of the country³⁴.

These figures are likely to underestimate the true scale of the issue. Research suggests that a substantial proportion of violence against First Nations women goes unreported, reflecting barriers to reporting, including distrust of institutions, fear of repercussions, and limited access to culturally safe support services.³⁵

As law enforcement and judicial responses to family, domestic and sexual violence have intensified, a further concern has emerged. First Nations women are increasingly being misidentified as perpetrators in violent incidents, contributing to rising rates of criminalisation and incarceration.

The impacts of family, domestic and sexual violence on First Nations women, children and communities are profound. They are long-term, intergenerational, and contribute to a range of social, health and economic outcomes that directly affect workforce participation, employment stability and overall wellbeing.

First Nations people, across all ages, continue to be alarmingly overrepresented in Australia's prisons. In 2023-2024 First Nations people were 20 times more likely than non-Indigenous Australians aged 10-17 to be under supervision³⁶. Over the same period, First Nations adults were 18 times higher than non-Indigenous Australians to be imprisoned³⁷.

These statistics are frequently mischaracterised in public discourse, with higher rates of incarceration incorrectly attributed to inherent criminality rather than the structural and systemic factors that drive justice system contact. Such narratives ignore the impacts of

³² (Australian Institute of Health and Welfare, 2024)

³³ (Dudgeon & Walker, 2015)

³⁴ (First Nations Advocates Against Family Violence, 2026)

³⁵ *ibid*

³⁶ (Australian Institute of Health and Welfare, 2025)

³⁷ *ibid*

colonisation, socio-economic disadvantage, over-policing, and systemic bias within legal and institutional frameworks.

The persistence of these misconceptions undermines meaningful reform by shifting focus away from the underlying causes of overrepresentation. It also contributes to a broader sense of distrust and disengagement among First Nations peoples towards law enforcement, the judiciary and other institutions—further entrenching barriers to participation across social and economic life, including employment.

26% of First Nations people report experiencing racial discrimination from police officers³⁸, and although Indigenous Australians make up just 3.8% of the population, they made up 29% of all deaths in custody in 2024-25 an increase from the previous year³⁹.

In this context, it is unsurprising that many First Nations peoples hold a deep mistrust of law enforcement and broader institutional systems⁴⁰.

Despite gradual improvements, life expectancy for Aboriginal and Torres Strait Islander people at all ages remains lower than for non-Indigenous Australians. First Nations men lived 8.8 years less, and First Nations women lived 8.1 years less than non-Indigenous Australians⁴¹.

Taken together, these outcomes reflect a system in which structural inequality continues to shape every stage of the employment lifecycle. These are not isolated issues, but interconnected factors that limit workforce participation, undermine job security and restrict opportunity. Without addressing these underlying determinants, efforts to improve employment outcomes for First Nations peoples will remain fundamentally limited.

The Role of Unions

The Australian union movement has been strengthened by the leadership, advocacy and engagement of First Nations workers and union members, who have played a critical role in advancing rights and challenging discrimination within workplaces and the broader community.

The movement also has a strong history of solidarity, with non-Indigenous union members standing alongside Aboriginal and Torres Strait Islander comrades in the ongoing struggle against racism, and in support of recognition and self-determination.

Union members continue to play an active role in driving change—through organising, collective action and advocacy—recognising that workers are stronger together. For almost two (2) hundred years, workers have come together in their unions to organise, take action, and win.

³⁸ (Reconciliation Australia, 2025)

³⁹ (Wellauer & McCarthy, 2025)

⁴⁰ (Daley, 2022)

⁴¹ (Australian Bureau of Statistics, 2023)

Advancing the industrial interests of First Nations peoples is core union business. This is reflected in ongoing work across the movement, including advocacy, bargaining, and the provision of industrial support to First Nations workers.

SA Unions acknowledges that, at times in its history, the union movement has failed to fully include Aboriginal and Torres Strait Islander peoples. The movement is committed to learning from this history and ensuring that it does not repeat these mistakes.

In the context of colonisation, dispossession and intergenerational trauma, unions have an important role to play as allies in advocating for systemic reform. The union movement will continue to work alongside First Nations workers and communities to challenge the systems and structures that perpetuate inequality.

Policy Positions

Recognition of Cultural Load

SA Unions recognises the cultural load carried by First Nations workers in their employment.

This cultural load often manifests as identity strain, with Aboriginal and Torres Strait Islander workers expected to take on additional responsibilities related to cultural representation, community engagement, and education within the workplace. This can include being called upon to respond to issues affecting First Nations communities, contribute to cultural initiatives, and speak on behalf of broader communities.

For many First Nations workers, this labour is undertaken without formal recognition or compensation. Evidence indicates that 55% of Aboriginal and Torres Strait Islander workers perform at least one (1) hour of unpaid cultural work each week. Notably, one (1) in five (5) First Nations workers undertake six (6) or more hours per week, equating to approximately seven (7) weeks of additional unpaid labour per year⁴².

Over the course of a working life, these demands accumulate significantly. Estimates suggest that over a 50-year career, one in two full-time First Nations workers will undertake the equivalent of at least one additional year of unpaid work associated with cultural responsibilities⁴³.

Aboriginal and Torres Strait Islander workers should be compensated for the work that they do, specifically when it comes to carrying the cultural load that has been placed on them.

In recognition of this, SA Unions takes the position that a loading or allowance be payable to Aboriginal and Torres Strait Islander workers in the South Australian public sector.

This model should be considered by the Commonwealth as a basis for broader national policy development.

Recommendation(s):

⁴² *ibid*

⁴³ *ibid*

Implement a loading or allowance payable to Aboriginal and Torres Strait Islander people, in recognition of the cultural load carried by Aboriginal and Torres Strait Islander people in their employment.

Higher Education Targets

For far to long, First Nations people have been underrepresented in higher education, especially academic, professional and leadership roles.

In the ongoing commitment to reconciliation, higher education institutions must increase the number of Aboriginal and Torres Strait Islander people employed across the sector, including in leadership positions.

The establishment of targets for the employment of First Nations people within higher education is an essential mechanism for addressing longstanding underrepresentation. Without clear targets, progress will remain unacceptably slow, inconsistent across the sector, and reliant on discretionary action by institutions.

Targets provide a framework for accountability, ensuring that universities take active steps to recruit, retain and support First Nations staff.

Increasing First Nations representation within higher education is critical not only for improving employment outcomes, but also for ensuring that institutions are better equipped to deliver culturally safe environments and more inclusive education systems.

Without targets, institutions are able to rely on voluntary or ad hoc approaches that have historically failed to deliver meaningful change.

Unions, particularly the National Tertiary Education Union (“**NTEU**”) and the Community and Public Sector Unions (“**CPSU**”) and their members in South Australia have played a key role in securing employment targets for First Nations people within enforceable enterprise agreements, ensuring that higher education institutions can be held accountable for their commitments.

Specifically, an employment target of 3% of the total staff across the institution can be found in the *University of South Australia Enterprise Agreement 2023*, and the *Flinders University Enterprise Agreement 2023 – 2026*. The *University of Adelaide Enterprise Agreement 2023-2025* also includes a target of 85 Indigenous staff members.

The inclusion of Aboriginal and Torres Strait Islander employment targets in enterprise agreements across higher education institutions demonstrates a clear willingness to ensure these commitments are enforceable.

It is therefore the recommendation of SA Unions that this inquiry investigate how employment targets for First Nations peoples in higher education institutions are enshrined moving forward, whether that be through alteration to awards such as the *Higher Education Academic Staff Award*, the *Fair Work Act 2009* or the Acts that establish the universities in each State and Territory.

Representation matters. Increasing the presence of Aboriginal and Torres Strait Islander staff within higher education can play a significant role in shaping aspirations, strengthening engagement, and supporting improved educational and employment outcomes for First Nations students.

Recommendation(s)

Enshrine Aboriginal and Torres Strait Islander equity and employment targets in universities.

Accelerated Access to Long Service Leave

SA Unions has long advocated for reforms that support the achievement of the targets set out in the National Agreement on Closing the Gap.

First Nations peoples continue to experience significantly poorer outcomes, including a life expectancy around eight (8) years lower than the national average and substantially lower employment rates in regional and remote areas, with employment among people aged 25–64 declining from approximately 68% in major cities to around 38% in very remote communities.

These patterns reflect the realities of employment for many First Nations workers, including community-based work and reliance on roles subject to insecure or short-term funding arrangements. In this context, it is essential that First Nations workers have access to long service leave at an accelerated rate to ensure equitable access to entitlements across shorter and more fragmented working lives.

Unions were at the forefront of the fight to secure portable long service leave across a range of sectors and jurisdictions in Australia.

Portable long service leave is essential to attracting and retaining staff to industries such as construction and community and social services where work is often subject to varying funding arrangements, changing staffing requirements and the availability of government funding/grants.

First Nations people often work in industries and for organisations that are subject to changing funding arrangements, regularly based on project delivery, as well as sectors where the nature of the work is temporary, geographically varied and demand driven.

Exploring the expansion of portable long service leave systems would be an incredibly positive step towards encouraging more First Nations participation in the workforce, particularly in industries that are central to the betterment of Aboriginal and Torres Strait Islander communities.

SA Unions submitted this recommendation to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training inquiry into the operation and adequacy of the National Employment Standards on the 6th of March 2026.

Recommendation(s):

Enshrine accelerated access to long service leave for First Nations workers in the NES.

Expand portable long service leave to areas including the arts, cleaning, security, tertiary education sectors, on-demand workers and other care-based sectors.

Cultural and Kinship Leave

First Nations Australians have extended family and kinship bonds, obligations and relationships that non-Indigenous Australians do not have, but which are not currently recognised in the *Fair Work Act 2009*.

SA Unions recognises the centrality of ‘Kinship’ to the societal structures and relationships for First Nations people. Kinship relationships can be complex and can vary from community to community of amongst clan groups.

Kinship includes family and extended family including spouses, parents, parents of a spouse, grandparents, siblings, aunts, uncles, cousins, guardians, foster parents, stepparents and step siblings, half -brothers and half-sisters, children, foster children, adopted children and stepchildren.

Aboriginal and Torres Strait Islander peoples also do not distinguish between the closeness of relationships within families. For example, one wouldn’t describe an aunt as a “Great Aunt” or “Great Uncle”, it would just be “Aunt” or “Uncle”. Additionally, in some communities an aunt would be considered as a mother, likewise for fathers/uncles. With cousins there is no such thing as second or third cousins, only ‘cousins’.

Access to key leave entitlements under the *Fair Work Act 2009* is currently tied to the statutory definition of an employee’s “immediate family”. As defined in s12, this term reflects a narrow conception of family that may not align with broader kinship structures.

In First Nations communities, caring can and does occur outside the current definition of immediate family, but this is not recognised by the current definition.

Additionally, First Nations workers have unique obligations to kin and country. This can include, but is not limited to, obligations to participate in cultural events and ceremonies such as funerals, reburials, smoking ceremonies, sorry business and NAIDOC celebrations among other important cultural events and ceremonies.

As custodians of the world’s oldest continuing cultures, First Nations peoples have unique cultural responsibilities and obligations that are not expressly recognised within the current NES framework. Providing a legislated and enforceable right to participate in cultural practices would support a more equitable and inclusive minimum safety net.

Recognising cultural and kinship obligations within the NES would support the commitments under the National Agreement on Closing the Gap, particularly those directed at improving employment outcomes and strengthening cultural identity and participation.

SA Unions submitted this recommendation to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training inquiry into the operation and adequacy of the National Employment Standards on the 6th of March 2026.

Recommendation(s)

Expand the definition of “immediate family” in s12 of the FW Act to include the following:

- (c) a person with whom there is a connection, relationship or obligation arising under Aboriginal or Torres Strait Islander kinship customs, traditions or cultures of communities, groups, or families to which the first person belongs.

SA Unions the Fair Work Act 2009 be amended to introduce a new form of leave, “Aboriginal and Torres Strait Islander Cultural Leave”, available to Aboriginal and Torres Strait Islander employees.

Protecting First Nations Workers from Violence and Harassment

The evidence outlined in this submission demonstrates the alarmingly high rates of family, domestic and sexual violence experienced by First Nations peoples, particularly women.

The nature of this violence is such that its impacts do not remain confined to the home. They extend into the workplace, affecting safety, wellbeing and the capacity of First Nations workers to participate in and remain in employment. This compounds the barriers already faced by First Nations workers and reinforces the need for workplace-based responses.

Sexual harassment, sexual discrimination and victimisation are recognised psychosocial hazards that pose significant risks to workers. Under work health and safety laws, a person conducting a business or undertaking (“**PCBU**”) has a duty to eliminate psychosocial risks, or, where that is not reasonably practicable, to minimise those risks so far as is reasonably practicable.

Although this responsibility remains with PCBUs, workers often report to their unions that employers are often unwilling to address the specific cultural problems to uniquely affect First Nations workers.

Additionally, due to many First Nations people’s reticence to engage with authorities, many incidents of harassment and victimisation in the workplace go unreported.

Unions play a fundamental role in this space by providing a safe and trusted pathway for First Nations workers to report harassment, discrimination and victimisation, and to seek advice and support in relation to their workplace rights.

Despite this, unions and workers currently lack appropriate mechanisms and standing to bring applications under civil penalty provisions. In addition, some jurisdictions do not provide pathways for workers to directly refer work health and safety disputes to specialist tribunals.

This issue was recently examined in South Australia through the *Independent Review of SafeWork SA*, conducted by John Merritt. Recommendation 39 of the review stated:

“The Government should commence consultation with employer organisations to amend the WHS Act to extend the existing civil penalty provisions to cover the primary duty at s 19 and the offences in Part 2 Division 5 of the WHS Act, and that

standing for bringing applications in civil penalty provisions be extended to workers, families of injured workers, and employee associations.⁴⁴”

SA Unions supports extending standing to bring civil proceedings to unions, injured workers and the families of injured workers and recently reaffirmed that position in our submission to Safe Work Australia’s review into Improving Dispute Resolution Under the Model Work Health and Safety Laws.

SA Unions also considers that workers and unions should have the ability to refer work health and safety disputes directly to specialised State and Territory tribunals for resolution.

The various State and Territory safety inspectorates, who are tasked with resolving WHS disputes, may choose to act or not act, leaving the potential that WHS risks and/or hazards remain unaddressed and dispute unresolved.

In a situation where there is a lack of resolution, there is no pathway for those most affected by the risk/hazard to seek resolution.

Affiliates of SA Unions have reported instances where inspectors have been required to make determinations on WHS matters without the necessary subject matter expertise. This is particularly relevant in cases involving culturally sensitive issues, where First Nations workers have been exposed to psychosocial hazards.

The ability for workers and unions to refer matters directly to specialised employment tribunals, such as the South Australian Employment Tribunal, is therefore critical. These bodies are better equipped to deal with complex WHS matters, particularly where First Nations workers are experiencing culturally unsafe workplaces.

These issues demonstrate that, while legal duties exist to address physical and psychosocial hazards, they are not consistently translating into safe and equitable workplace outcomes for First Nations workers. Strengthening enforcement, access to remedies and worker representation is therefore critical to ensuring these obligations are realised in practice.

Recommendation(s)

Protect all workers from sexual harassment, sex discrimination and victimisation at work, including by imposing clear duties on PCBUs which are underpinned by a civil penalty regime and supported by stop orders with standing granted to unions.

Ensure PCBU's take appropriate steps to protect workers from third-party violence and abuse, such as a mandatory Code of Practice for high-risk establishments and public precincts.

⁴⁴ (Merritt, 2022)

Implement clearer avenues for workers to report and escalate psychosocial risks and impose greater obligations on work health and safety inspectorates to investigate risk, exercise compliance powers and disclose the outcomes of investigations to workers and their Unions.

Increasing protections in relation to psychosocial safety in the workplace. In addition to the existing work health and safety duties, commence consultation to implement:

standing for workers and Unions to apply for stop orders and civil penalties against PCBUs (as well as the individuals responsible) with respect of psychosocial risks,

greater measures to ensure that HSRs are properly resourced by PCBUs to exercise their powers and perform their functions under the Act,

clearer avenues for workers to report and escalate psychosocial risks, and impose greater obligations on safety inspectorates to investigate risk, exercise compliance powers and disclose the outcomes of investigations to workers and their Unions,

clearer guidance for HSRs to enable them to confidently direct psychosocially unsafe work to cease,

clearer guidance for workers to confidently cease psychosocially unsafe work,

policies requiring safety inspectorates to investigate and attend workplaces on each occasion a workers compensation claim for a psychiatric injury is lodged, and

policies requiring workers compensation authorities to notify the relevant union/s of the workplaces at which a workers' compensation claim for psychiatric injury has been made.

Ongoing Commitment to Voice, Truth and Treaty

The Uluru Statement from the Heart is an invitation from First Nations peoples to the Australian community to walk together towards a better future. It calls for the establishment of a First Nations Voice to Parliament, alongside the creation of a Makarrata Commission to oversee processes of agreement-making and truth-telling.

SA Unions remains committed to the Uluru Statement from the Heart.

Despite the outcome of the 2023 referendum, SA Unions is steadfast in its support for the full realisation of the Uluru Statement, and in continuing to walk alongside First Nations peoples in pursuit of meaningful and lasting change.

The public discourse surrounding the referendum also exposed the persistence of racism and division within the Australian community. For many First Nations peoples, this reflected a broader and ongoing reality of discrimination, hostility and exclusion that continues to shape their experiences across society, including within workplaces and institutions.

SA Unions commends the efforts of the South Australian Labor Government for delivering on their commitment to implement a South Australian Voice to Parliament.

Through the South Australian Voice, First Nations people can have their say at the highest levels of decision-making in South Australia on matters, policies and laws that affect them.

SA Unions is committed to engaging with and supporting the South Australian Voice to Parliament in advancing its objective of ensuring that Aboriginal and Torres Strait Islander peoples can have their voices heard at the highest levels of decision-making in South Australia.

In committing to the Uluru Statement from the Heart in full, it is essential that governments also progress the complementary elements of Truth and Treaty.

The pursuit of self-determination for First Nations peoples has long included the negotiation of treaties—formal agreements between Aboriginal and Torres Strait Islander peoples and governments that recognise rights, responsibilities and relationships in relation to land, resources and governance.

Treaty processes may take a range of forms and include a variety of provisions. However, at their core, they must recognise Aboriginal and Torres Strait Islander peoples as the original custodians of the land and waters of Australia, and provide a framework for shared decision-making, recognition, and appropriate use and benefit from land and resources.

Makarrata is another word for treaty or agreement making. It captures the aspirations of First Nations Australians for a fair and honest relationship with government and a better future for Aboriginal and Torres Strait Islander children based on Justice and self-determination⁴⁵.

Truth telling is essential to understanding the historical and ongoing impacts of colonisation on First Nations people. The experiences of disposition, violence and systemic exclusion shape the present-day outcomes for aboriginal and Torres Strait Islander people which contribute to the disparities in health, education and employment.

Recognising this history is critical to ensuring that policy responses address the structural causes of inequality, rather than its symptoms.

Without a shared and accurate understanding of this history, efforts to address inequality risk being incomplete or misdirected. Truth-telling provides the foundation of meaningful reform by recognising the structural origins of disadvantage and creating a basis for informed policy.

Without truth, there can be no meaningful reform, as the system that produce inequality will remain unexamined and unchanged.

SA Unions remains steadfast in its commitment to the Uluru Statement from the Heart. The outcome of the 2023 referendum does not diminish the need for reform. Voice, Treaty and Truth remain essential components of a framework for self-determination, and

⁴⁵ (The Uluru Statement , 2026)

governments must continue to pursue these reforms to address the structural causes of inequality.

Recommendation(s):

Promote efforts to advance the vision of the Uluru Statement from the Heart.

Racism@Work Inquiry

In November 2025, an alliance of the ACTU, the Australian Human Rights Commission, UTS Sydney's Jumbunna Institute and the Diversity Council of Australia jointly called for the first-ever national inquiry dedicated to racism in Australian workplaces, modelled on the landmark Respect@Work inquiry into sexual harassment.

First Nations workers reported staggering levels of racism and racially motivated hatred in the workplace in the 2025 *Gari Yala (Speak the Truth) study*, with 44% of respondents noting that they had been exposed to racial slurs or jokes in the workplace, and that only 40% consider their workplace to be culturally safe.

The union movement strongly advocates for the Commonwealth to advance a national Racism@Work inquiry, which is directly relevant to tackling racism against Aboriginal and Torres Strait Islander workers.

This inquiry would, for the first time, centre the lived experiences of First Nations workers within a formal, Commonwealth-level investigation with the Authority to drive legislative and regulatory reform, something no existing framework has achieved.

SA Unions supports the work of the ACTU, the Australian Human Rights Commission, UTS Sydney's Jumbunna Institute and the Diversity Council of Australia's calls for a Racism@work inquiry and encourages the Committee to investigate how this can be progressed.

Recommendation(s):

Investigate the calls for the implementation of a Racism@Work inquiry.

Amendment to the Racial Discrimination Act 1975

In 2022, a positive duty was introduced into the *Sex Discrimination Act 1984* imposing a legal obligation on organisations and PCBUs to take proactive and meaningful action to prevent and respond to sexual harassment, sex discrimination, hostile work environments and related victimisation in the workplace and in connection with work⁴⁶.

This duty applies to all employers and PCBUs, regardless of the size or nature of the organisation. To comply, organisations are expected to implement appropriate policies, provide training, and establish clear and accessible reporting mechanisms to prevent and address unlawful conduct. Employers must also be able to demonstrate that they have taken reasonable and proportionate steps to meet this obligation⁴⁷.

⁴⁶ (Australian Human Rights Commission, 2026)

⁴⁷ *ibid*

Employers need to be able to demonstrate that they have taken reasonable steps to meet the positive duty.

Under the *Sex Discrimination Act 1984*, the Australian Human Rights Commission (“**AHRC**”), has the power to investigate compliance, issue compliance notices, seek court order to enforce compliance, and enter into enforceable undertakings.

Despite clear evidence that First Nations peoples experience targeted racism, harassment and systemic exclusion, no equivalent positive duty exists under the *Racial Discrimination Act 1975*.

The *Racial Discrimination Act 1975* should be amended to introduce a positive duty requiring organisations and PCBUs to take proactive and meaningful steps to prevent and respond to racial vilification, racially motivated exclusion and related victimisation in the workplace. This reform would represent a significant step towards addressing systemic racism experienced by First Nations peoples.

Importantly, section 47C(7) of the *Sex Discrimination Act 1984* makes clear that the positive duty does not limit or otherwise affect duties owed under work health and safety legislation. This interaction is critical and should be replicated in any amendment to the *Racial Discrimination Act 1975*, particularly in relation to a PCBU’s primary duty of care under work health and safety legislation.

This primary duty includes, under section 19(3)(f) of the harmonised work health and safety Acts, the requirement for PCBUs to provide the information, training, instruction and supervision necessary to protect all persons from risks to their health and safety. Embedding a positive duty within the *Racial Discrimination Act 1975* would reinforce these obligations.

In his speech to the National Press Club on the 29th of April 2026, the President of the AHRC Hugh de Krestler noted that the inclusion of a positive duty in the Sexual Discrimination Act 1984 shifted the focus from responding to discrimination to actively stopping harm before it occurs. Hugh de Krestler also called for this positive duty to be replicated across all Federal discrimination laws, which includes the *Racial Discrimination Act 1975*.

While the introduction of the positive duty represents a significant shift towards prevention, its effectiveness is currently limited by the absence of accessible enforcement mechanisms for workers and their representatives. In practice, enforcement remains largely dependent on regulator discretion, rather than worker-driven action.

Should amendment be made to the *Racial Discrimination Act 1975*, and a positive duty is included, standing should be provided to workers and unions to pursue compliance and enforcement action.

Recommendation(s):

Amendment to the *Racial Discrimination Act 1975* including a positive duty on employers to eliminate unlawful racial discrimination, reflecting Section 47C of the Sex Discrimination Act.

Any positive duty embedded in the *Racial Discrimination Act 1975* should provide for standing to be extended to workers and unions to enforce compliance and pursue non-compliance.

Summary

This submission has outlined the structural and systemic barriers that continue to shape the experiences of First Nations people across the employment lifecycle. These barriers are not isolated or incidental, they are the product of entrenched inequality, driven by racism, exclusion, and the ongoing impacts of colonisation.

For First Nations workers, these barriers operate at every stage of employment, from access to employment opportunities, experiences within the workplace, post-employment outcomes and through broader social and economic conditions that influence participation and outcomes.

Violence, discrimination, insecure work and overrepresentation in the justice system all interact to limit opportunity and undermine safety, dignity and wellbeing at work.

While legislative Frameworks exist to address some of these issues, including under work health and safety laws, this submission has demonstrated that these frameworks are not consistently translating into safe, fair and equitable outcomes in practice.

Gaps in enforcement, limited remedies and an overreliance on regulator discretion continue to restrict the ability of workers and unions to address harm.

Addressing these challenges requires more than incremental reform. It requires a commitment to structural change. This includes enforcement mechanisms, expanding access to justice, and ensuring that racism and violence are recognised and addressed as serious workplace health and safety issues.

SA Unions remains committed to the Uluru Statement from the Heart and to advancing the principles of Voice, Treaty and Truth. These reforms are essential to ensuring that First Nations people are not only heard but are active in shaping the system and institutions that affect their lives.

The recommendations put forward in this submission are practical and grounded in the experiences of First Nations workers and the unions that represent them.

We thank the Committee for the opportunity to present this submission and are available to answer any questions or address any concerns that may arise.

30 April 2026



Dale Beasley
Secretary, SA Unions

References

- Alison, B., Andrew, L., & Elena, V. (2011). Does Ethnic Discrimination Vary Across Minority. *Oxford Bulletin of Economics and Statistics* .
- Australian Bureau of Statistics . (2023, Nov 29). *Aboriginal and Torres Strait Islander life expectancy*. Retrieved from Australian Bureau of Statistics : <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/aboriginal-and-torres-strait-islander-life-expectancy/latest-release>
- Australian Bureau of Statistics . (2024, Jan 18). *Labour Force Australia* . Retrieved from Australian Bureau of Statistics : <https://www.abs.gov.au/statistics/labour/employment-and-unemployment/labour-force-australia/dec-2023>
- Australian Bureau of Statistics . (2025, 09 15). *Education Attainment* . Retrieved from Australian Bureau of Statistics : <https://www.abs.gov.au/statistics/measuring-what-matters/measuring-what-matters-themes-and-indicators/prosperous/education-attainment>
- Australian Human Rights Commission . (2012, Dec). *Chapter 2: Lateral violence in Aboriginal and Torres Strait Islander communities - Social Justice Report 2011*. Retrieved from Australian Human Rights Commission : <https://humanrights.gov.au/resource-hub/by-resource-type/books/chapter-2-lateral-violence-aboriginal-and-torres-strait-islander-communities>
- Australian Human Rights Commission. (2026). *The positive duty in the Sex Discrimination Act*. Retrieved from Australian Human Rights Commission: <https://humanrights.gov.au/know-your-rights/rights-of-individuals/workplace-rights/positive-duty-sex-discrimination-act>
- Australian Institute of Health and Welfare . (2006). *Aboriginal and Torres Strait Islander Health performance Framework* . Retrieved from Australian Institute of Health and Welfare : <https://www.indigenoushpf.gov.au/measures/2-07-employment?utm>
- Australian Institute of Health and Welfare . (2024, Jul 2). *Health and wellbeing of First Nations people*. Retrieved from Australian Institute of Health and Welfare : <https://www.aihw.gov.au/reports/australias-health/indigenous-health-and-wellbeing>
- Australian Institute of Health and Welfare . (2025, Oct 16). *Employment of First Nations People* . Retrieved from AIHW: <https://www.aihw.gov.au/reports/australias-welfare/indigenous-employment>
- Australian Institute of Health and Welfare . (2025). *Profile of First Nations people*. Canberra: Australian Institute of Health and Welfare .
- Australian Institute of Health and Welfare. (2025, Oct 16). *Safety and Justice for First Nations People* . Retrieved from Australian Institute of Health and Welfare: <https://www.aihw.gov.au/reports/australias-welfare/indigenous-community-safety>
- Business Queensland . (2024, Feb 16). *Benefits of cultural diversity and addressing racism in the workplace*. Retrieved from Business Queensland : <https://www.business.qld.gov.au/running-business/employing/culturally-safe-workplaces/cultural-diversity#:~:text=Stereotypes%20and%20preconceptions,their%20other%20skills%20and%20achievements.>

- Daley, P. (2022, Mar 19). *Police Interactions with Aboriginal People are scarred by Australia's violent frontier history*. Retrieved from The Guardian : <https://www.theguardian.com/australia-news/postcolonial-blog/2022/mar/19/police-interactions-with-aboriginal-people-are-scarred-by-australias-violent-frontier-history#:~:text=According%20to%20an%20article%20by%20Paul%20Daley%2C,the%20past%20as%20well%20as>
- Dudgeon, P., & Walker, R. (2015). Decolonising Australian Psychology: Discourses, Strategies, and Practice. *Journal of Social and Political Psychology*.
- First Nations Advocates Against Family Violence . (2026). *Domestic violence and family violence*. Retrieved from First Nations Advocates Against Family Violence : <https://fnaafv.org.au/learn-about-family-violence/>
- Ipsos. (2023). *2023 Ipsos Indigenous Issues* . Ipsos.
- Menzel, K. (2022, May 24). *Attention managers: if you expect First Nations' staff to do all your 'Indigenous stuff', this isn't support – it's racism*. Retrieved from The Conversation : <https://theconversation.com/attention-managers-if-you-expect-first-nations-staff-to-do-all-your-indigenous-stuff-this-isnt-support-its-racism-176143#:~:text=Additional%20strain%20for%20First%20Nations,dominant%20culture%20in%20the%20workplace.>
- Merritt, J. (2022). *Independent Review of SafeWork SA* . Adelaide.
- Mohamed, J. (2015, March 12). *Living on Country represents more than a 'lifestyle choice'*. Retrieved from Reconciliation Australia: <https://www.reconciliation.org.au/living-on-country-represents-more-than-a-lifestyle-choice/>
- National Indigenous Australians Agency. (2021). *Year 12 Attainment* . Retrieved from NIAA: [https://www.niaa.gov.au/sites/default/files/reports/closing-the-gap-2020/year-12-attainment.htm#:~:text=Over%20the%20past%20decade%2C%20the,%20Stronger%20Smarter%20Institute%202014\).](https://www.niaa.gov.au/sites/default/files/reports/closing-the-gap-2020/year-12-attainment.htm#:~:text=Over%20the%20past%20decade%2C%20the,%20Stronger%20Smarter%20Institute%202014).)
- Reconciliation Australia. (2025, June 18). *2024 Australian Reconciliation Barometer Racism and First Nations People* . Retrieved from Reconciliation Australia : <https://www.reconciliation.org.au/publication/2024-australian-reconciliation-barometer-racism-and-first-nations-peoples/#:~:text=Reports-,2024%20Australian%20Reconciliation%20Barometer:%20Racism%20and%20First%20Nations%20Peoples,compared%20to%2039%25%20in>
- Shirodkar, S., Foley, D., & Hunter, B. (2018). Ongoing growth in the number of Indigenous Australians in business. *CAEPR Working Paper Series*.
- The Productivity Commission . (2024). *Review of the National Agreement on Closing the Gap* . Canberra : Productivity Commission .
- The Uluru Statement . (2026). *Makarrata* . Retrieved from The Uluru Statement : <https://ulurustatement.org/our-story/makarrata/>
- Wellauer, K., & McCarthy, J. (2025, Dec 11). *Australia records highest number of Indigenous deaths in custody since 1979*. Retrieved from ABC News : <https://www.abc.net.au/news/2025-12-10/largest-number-of-indigenous-deaths-in-custody-since-1979/106121828>
- Young, N., Gilber, J., Evans, O., & O'Leary, J. (2026). *Gari Yala 2 (Speak the Truth) Synopsis Report: Centring the Work Experiences of Aboriginal and/or Torres Strait Islander Australians in 2025-2026*., Sydney: CIPW.