

2025 Methodology Review: justice draft position paper

Northern Territory consultation response

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1. Summary of Territory submissions

In summary, the Territory:

- Submits that the apportionment for statewide police services should be in line with expenses, or 75:25 expenses and employees, and no less than 50:50, with no amount discounted or assessed equal per capita,
- Does not support the apportionment of non-stated defendants' data in line with stated Indigeneity ratios as the cohorts appear materially different,
- Does not support the removal of the courts regional gradient, and suggest the general gradient be applied,
- Otherwise supports the Commission's positions in-principle but defers a final position until 2023-24 data is available.

2. Introduction

The current consultation follows the 2025 Review, which deferred most of the justice category to allow two further years of offender and defendant data to be collected for 2022-23 and 2023-24. 2022-23 impacts are now provided for consultation, with 2023-24 to be provided in the next Commission paper in October. This submission responds based on the 2022-23 impact analysis and advice, however the Territory defers a final position until 2023-24 data is available.

3. Response to Commission positions

3.1. Justice model and data issues

3.1.1. Are 2022-23 data fit for purpose?

The Territory agrees that 2022-23 data appear fit for purpose for the reasons set out by the Commission however reserves a final position until 2023-24 data is available for consideration.

The Territory notes the Commission has elected to continue to use 5-yearly updates, rather than annual. The Territory does not continue to seek annual updates noting the position of the Commission and majority of states.

3.1.2. The impact of updating estimated residential population and 2021 First Nations proportions

The Territory notes the impact of non-demographic Indigenous population growth in the 2021 Census is now flowing into the assessment following suspension as decided in the 2024 Update. While it is appropriate and necessary for the new population data to now flow through, consideration of the ongoing impact of non-demographic change on assessments will remain relevant for the 2030 Review. It is noted a review of Indigenous socio-demographic measures is included on the forward works program.

3.2. Police assessment

The Territory supports the Commission's continued use of a regression-based model. The use of a regression model and the Commission's specification appears supported and valid on 2022-23 data.

However, as the specific results are data-driven, the Territory reserves a final position until 2023-24 data is available.

3.2.1. How should central costs be allocated to regions

The Territory submits that the simplest approach is to continue to apportion police 'central' costs to regions based on the region's expense shares, particularly as an apportionment on a full-time equivalent (FTE) ratio has low materiality and involves judgment. Alternatively, an allocation of costs to regions based on 75% in line with expenses and 25% in line with full-time equivalent numbers is supported. At a minimum, the Territory supports no less than the Commission's position of a 50:50 allocation.

The Territory does not support a higher FTE ratio than 50%, as this understates specialist and hub services, and asset and equipment costs in highly dispersed remote areas.

The Territory does not support any alternative methods, particularly equal per capita or discounting.

Central costs vs statewide services

As an initial comment, the Territory prefers to reframe the discussion from apportionment of 'central costs' to discussing 'statewide services' or 'dispersed services', or a similar term. It is submitted the relevant query is not whether a cost is central or non-central, but rather how to geographically apportion costs that do not relate to activities/drivers in a singular geographic district.

The distinction is important to avoid any label which implies the apportioned costs are delivered or only relevant to activity in a central area such as a capital or major city. A significant part of these costs are influenced by and delivered in dispersed regions. For example, Territory police aviation services are required to move to, from and between remote communities, but require apportionment as they do not service a single community only.

The distinction is consistent with the Commission's data request, which asked states to identify central costs "...that would typically only be undertaken (or based in) police central head offices in major cities..." from those "Used to provide services/resources for all police districts across the state..."

The Territory approached its data return by identifying police cost centres that were likely to have activities in and/or demand from outside their notionally assigned accounting geography. This involved judgement based on cost centre descriptions. The Territory did not seek to apply a label of 'central' cost as there is no clear definition and cost centre structures differ between states. Darwin costs that related solely to Darwin were allocated to the Darwin area and not apportioned. The Territory provided a full list of its police cost centres for 2022-23 to the Commission for transparency on its approach. The Territory has no visibility of other states' data. The observation, that 43-77% of police costs are 'central' costs is not consistent with the Territory's experience and likely reflects differences in state identification approaches.

Data outcomes

The Territory's 2022-23 data shows that:

- Around \$215 million (over 160 cost centres), or slightly less than half of total Territory police costs, required apportionment as they likely had activities in, or drivers from, more than one region.
- Around 53% of costs are from the top 15 largest cost centres, the largest being \$26 million, 9 with more than \$5 million in costs, and the majority, over 100, had budgets less than \$1 million.
- Of the top 15, six were for specialist units, being: domestic and sexual crimes, intelligence, Territory response group, organised crime, major crimes, and serious crimes.

- Of the remainder, two relate to ICT (one for general charges and one for specific statewide systems development), two are for workers compensation and insurance, and one each are for: joint emergency services communication centre, property asset management, induction and training, working with children clearances, and communications.
- The residual are highly varied, but the majority are of an optional nature including specialist services which would be delivered in, or driven by activity rates in, dispersed locations.
- In addition to the \$215 million, there were around \$8 million in costs for services in remote areas, Katherine and Alice Springs, delivered to very remote communities.

Apportionment discussion

Given the number and variety of cost centres, it is complex and infeasible to investigate all possible drivers.

Accordingly, the Territory agrees that determining a broad apportionment approach is reasonable, simple and practical. A broad apportionment does not imply uncertainty or give rise to any case for discounting as the apportioned costs continue to follow actual data, as the differences between apportionments is comparably small, and because there is no, or minimal, case or evidence for a per-capita cost driver.

For ease of reference, this discussion adopts the Commission's labels of 'support' and 'specialist' services. However, such terms are not technical labels and do not have a precise meaning, so any grouping involves judgement and is not a strict mathematical/accounting exercise.

The Territory submits that specialist services are straightforward and should be apportioned in line with expenses. This is because specialist services are driven by the same cost drivers as police districts, including offence rates and remoteness/service delivery scale, noting these services are physically delivered in remote areas, particularly on an incident basis. The Territory considers this would be significantly more than the Commission's estimate of 25% of apportioned costs and is likely above 50% of Territory apportioned costs, noting at least 6 of the top 15 are specialist.

The Territory notes some states have previously submitted that some specialist services, including intelligence organised crime and counterterrorism should be allocated to global cities, driven by population or not FTE or expenses. The Territory disagrees, with discussion in the 'global cities' section.

Support services are more varied. Some are agreed to be driven by FTE. For the Territory this includes induction and training, and workers compensation payments and insurance.

However, the more substantial component of support services is better apportioned by expenses than FTE. The clearest example is equipment and building costs, including ICT. These will be higher in a district with dispersed geographic assets than a less-dispersed district with the same FTE.

The Territory also submits that FTE would undercount the support services required in regions where assets are not staffed on a full-time daily basis. The most-remote communities are often staffed on a rotational part-FTE basis. However, any physical assets continue to incur a minimum level of overhead, management, maintenance and servicing costs regardless of staff presence, which are driven by remoteness costs. That is, a smaller FTE may not correlate with a smaller support cost share, and under-estimate dispersed costs compared to an expense apportionment. Additionally, FTE levels in central/regional hubs are maintained at higher levels to enable back-filling of remote stations during leave periods.

On this basis, of the Territory's top 15 cost centres, only three or four are submitted to follow FTE (those relating to general workforce costs), with all specialist services, and the majority of support services better apportioned by expenses. This is submitted to support at most a 25% FTE apportionment.

Given only a small proportion is considered to follow FTE, the simplest approach would be to continue to apportion solely on expenses, particularly if the method change is not materially different in most states.

However, in the alternative, a 75:25 expense to FTE ratio would be accepted.

For completeness, the Territory does not agree with other possible apportionments. The Territory particularly does not agree with any equal per capita apportionment.

The examples listed by the Commission and by some states as being potentially population-based are at least partially driven by factors other than population share. Demand for call centre, communications and media is related to offences and major incidents. Road policing may be influenced by road length and major incident rates, with the Territory having a significantly above-average rate of motor vehicle hospitalisations and deaths among its Indigenous and populations from remote areas, including visitors in Darwin. Major events in remote areas incur deployment costs, and are affected by delivery scale or remoteness in the same way as other public sector functions. Global cities are discussed later in this submission. In any event, isolating these small categories appears immaterial and inconsistent with simplicity principles.

3.2.2. What is the effect of 2022-23 data on the regression model?

The Territory supports and has no in-principal concerns with the Commission's regression approach. However, the Territory defers its final position on the regression model until 2023-24 data is available.

3.2.3. Should an additional variable for remote offenders be added to the regression?

The Territory notes the advice that an additional remoteness cost loading, on top of the variables already regressed, are not significant on 2022-23 data, consistent with the 2020 Review.

3.2.4. Is there a case for a global cities driver in the police assessment?

The Territory notes cultural and linguistic diversity is part of the forward work program and that federal prisoners will not be adjusted and is considered decided.

The Territory agrees with the Commission and does not support a global cities driver in respect of counterterrorism and complex crime, as there is insufficient evidence or conceptual case. As noted by the Commission, regional and remote areas are not devoid of complex crime or extremism/terrorism (or potential for such activity) and small jurisdictions clearly incur these costs, including compliance with national strategies and planning. The Territory is not aware of any evidence that would support a cost driver being limited to large cities only.

Regardless of the rate of complex crime/counterterrorism, a differential assessment for expenses in a specific offence class is challenging as this treatment does not occur for other expense classes. Rather, the assessment measures general duties and the cost of responding to offences globally. There are considerable data limitations and complexity in delineating the costs and drivers of each type of police activity at a cost-centre level. For example, the current method does not allocate domestic violence specialist police costs to regions in line with domestic violence offences despite a clearer conceptual and data case. For example, on Territory data, in the years 2018-2023 only 24-31% of domestic violence assaults occurred in Darwin/Palmerston, compared to Darwin comprising 36-46% of costs under an expense or FTE apportionment.

Further, it is not clear what adjustment states are seeking, as a "global city" has not been defined. Usual remoteness definitions are plainly inappropriate as the Territory and Tasmania are not classed "major

cities” but incur these costs. Capital cities are inappropriate as this implies non-capital populations have no cost relevance, which is also not reasonable. In any event, it is submitted that such an apportionment appears unlikely to be material.

The Commission notes global cities drivers could be considered in the forward works program. While the forward work program will be subject of separate submissions as it commences, the Territory considers capacity should be reserved for the most certain, credible and material adjustments due to resourcing and terms of reference limitations outside review periods. While this is a judgement decision, it is submitted global cities police costs would not meet this threshold.

3.2.5. What is the appropriate socio-economic group structure for First Nations people?

The Territory supports and has no in-principal concerns with the Commission’s approach. However, defers its position on the regression model until 2023-24 data is available.

3.3. Criminal courts assessment

3.3.1. Decision to attribute Indigenous non-stated finalised defendants by the proportion of state defendant responses.

The Territory submits that the non-stated finalisations should not be apportioned as it appears Indigeneity ratios materially differ from stated cohorts and likely distort the results.

The Territory notes this was considered in the 2025 Review, with discussion in the draft report. However, it is submitted this warrants review as the new impacts analysis has unexpected direction and materiality.

An attribution of Indigenous status from stated to non-stated persons is generally appropriate when non-stated persons are expected to have similar demographic compositions to the stated population. The approach is conceptually uncontroversial and used in several categories. The intention is to improve data quality by allowing more observations to be used.

However, if there is evidence that non-stated persons are materially compositionally different to stated persons, then applying stated characteristics to non-stated persons could assume Indigeneity ratios that do not exist, and reduce, rather than improve, data quality.

The impact is minor for courts, however material for prisons. The prisons impact is the largest method change under consultation in the Territory at -\$73 per capita. This suggests further scrutiny is required. The change is immaterial in other states. The Commission advises the result is due to non-stated defendants having higher average socio-economic status than stated persons, leading to more assessed expenses in higher socio-economic Indigenous areas.

An initial observation is that the materially different socio-economic profile is itself cause for reflection, as it implies the cohorts are not demographically consistent and could be evidence of differing Indigeneity.

The Territory does not have access to the Commissions’ defendant data, which is sourced from states and is confidential, so has conducted a review of publicly available ABS data. This notably only covers five states and does not include Western Australia.

The ABS defendant data indicates that:

- Non-stated persons are on average older than stated Indigenous or stated non-Indigenous cohorts. For example, the median age of finalised defendants in 2023-24 in New South Wales was 38.7 years for not-stated, compared to 36.8 non-Indigenous, and 31.8 Indigenous.
- Non-stated persons have a materially different offence profile, with a larger proportion of fraud/deception and miscellaneous offences and a lower proportion of acts intended to cause injury including assaults, than stated persons (illustrative New South Wales data at Chart 1 below). This suggests the behavioural profile of stated and non-stated persons are significantly different, noting offender behaviour and demographics are conceptually related.
- The method of finalisation for non-stated persons shows a significantly higher rate of monetary penalties including fines, and a lower rate of custody in a correctional institution, consistent with the different offence types (illustrative New South Wales data at Chart 2 below). This appears particularly relevant for the prisons assessment as it implies a lower conversion rate to prisoners.

Chart 1 – Criminal courts finalisations; defendants finalised by principal offence and indigeneity, New South Wales, 2023-24 (ABS, Criminal Courts)

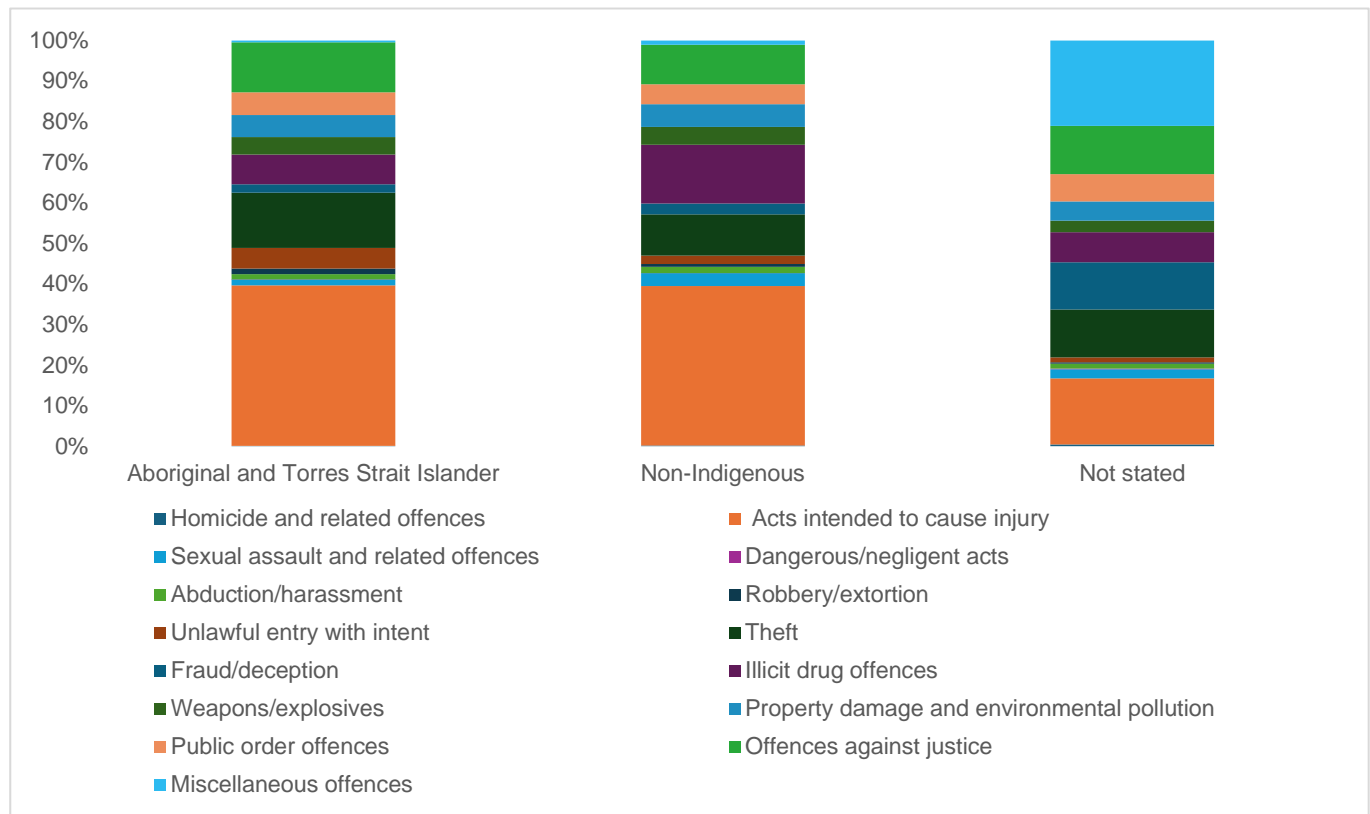
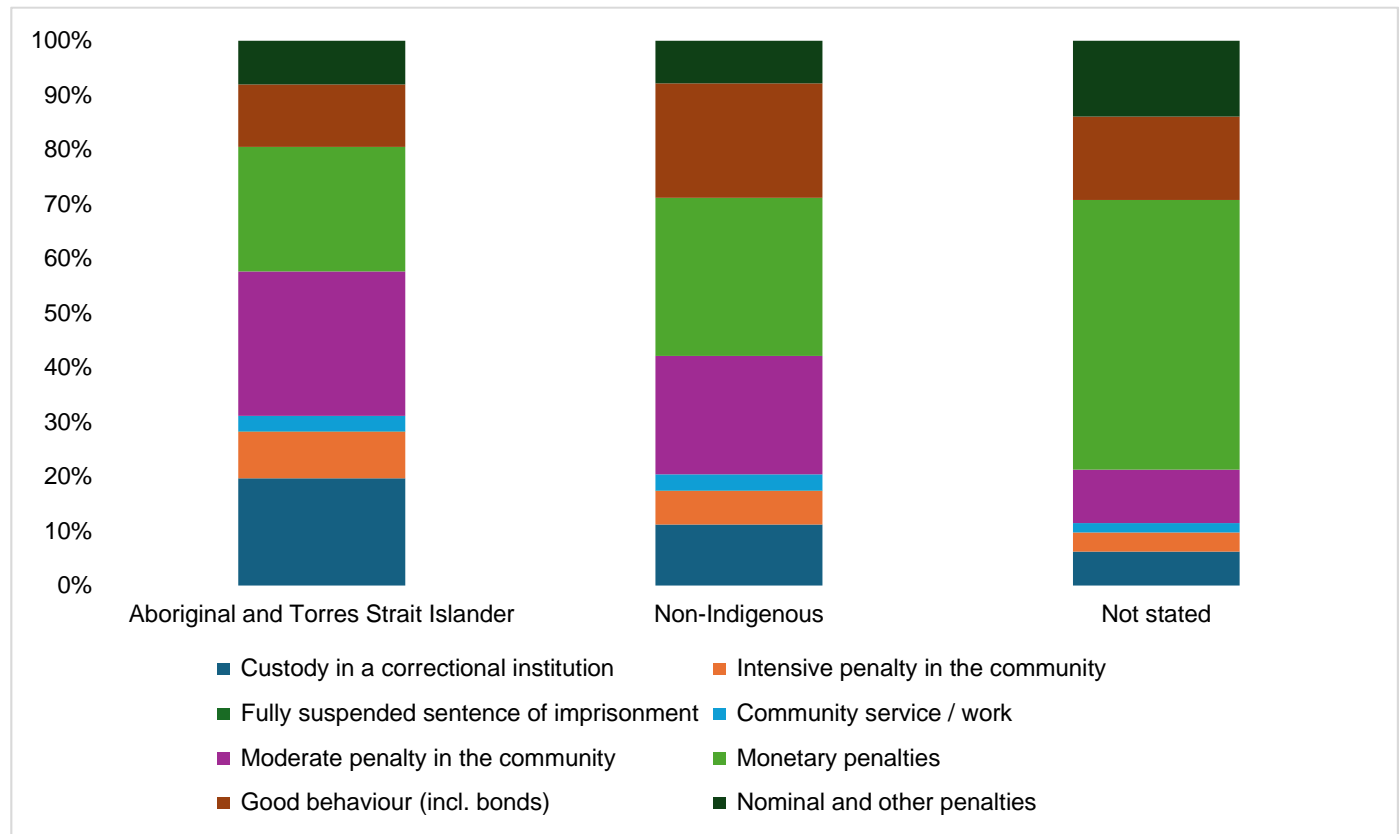


Chart 2 – Criminal courts finalisations; method of finalisation by principal sentence and indigeneity, New South Wales, 2023-24 (ABS, Criminal Courts)



The significant differences between stated and non-stated data creates doubt as to whether the cohorts have the same Indigeneity composition. While it is difficult to measure, the higher socio-economic status, age, and different behavioural profiles suggest a larger non-Indigenous proportion.

Further scrutiny appears particularly warranted for prisons as this involves a second round of assumptions. The lower custodial sentence rate for the non-stated cohort suggests this cohort is less informative of prisoner socio-economic status than the stated cohort. ABS prisoner data does not have a material non-stated cohort, consistent with the non-stated defendants not translating to prisoners.

Given these circumstances, the Territory considers the Commission should either:

- Not apportion the non-stated defendant data, or
- Apply the apportionment to courts but not prisons.

As maintaining two sets of defendant rates is less practical or simple, the Territory's preference is for the Commission to not make the apportionment. This also notes the change is immaterial in any jurisdiction except the Territory.

3.3.2. Should criminal courts be assessed equal per capita

The Territory strongly agrees with the Commission's view not to assess criminal courts equal per capita. There is voluminous evidence, which should be beyond doubt, that defendant rates are highly correlated with demographics. It is not credible to suggest defendant rates have no bearing on court costs.

The Territory has reviewed submissions seeking an equal per capita assessment. In short, the evidence presented does not build a credible case for a per capita assessment or discounting. Divergences between some states' actual costs and defendant rates are not evidence in support of a per capita assessment, as equal per capita would result in much greater divergences particularly in the Territory due to its large remote Indigenous population. In any event, divergences are normal, including due to policy factors. For completeness, there is no basis to suggest a per capita assessment on simplicity grounds as the criminal courts assessment is material and not more complex than other assessment categories.

3.3.3. Do data support an assessment of regional costs for criminal and civil courts?

The Territory does not support the Commission's draft position to remove remoteness loadings. As with other data-driven positions, the Territory defers a final position until 2023-24 data is available. The Territory notes the changes appear to be driven by changes in cost profiles in other states, particularly Western Australia and New South Wales, which the Territory has no visibility over beyond the Commission's analysis.

However, the Territory considers the impact is likely obscured by data limitations, and supports either applying the general regional gradient, or a service-delivery scale assessment similar to prisons, with discounts as appropriate.

The data provided to the Commission only allows for a high-level analysis of Court costs, being the cost per defendant per court. This does not account for various factors which may obscure the regional loading such as case-complexity, so has similar issues as security ratings for prisons.

For example, in 2024-25 the Alice Springs/Barkly region(s) comprised 36% of total Territory local court lodgements but 51% of total traffic and vehicle offence lodgements (this category being 23% of total Territory lodgements). This compares to only 17% of Darwin lodgements being in this category. If traffic and vehicle costs differ from other categories, the cost gradient between regions will be materially distorted. Importantly, the higher rate of these offences does not imply that there are fewer (or less-complex/costly) offences in Alice Springs/Barkly overall, as in both Darwin and Alice Springs/Barkly, the largest lodgement category is assaults, at a consistent rate of 39% of lodgements (the same rate for the Territory overall). Similarly, domestic violence rates account for a large proportion of offences in either region (37% Darwin and 32% Alice Springs/Barkly). While the Commission separates traffic-related activity in its defendant rate data, this does not occur for cost data, as costs are not available at an offence-level.

Removal of the regional loading based solely on the total cost per finalisation conflates possible drivers and warrants further consideration. The Territory does not agree, on the evidence presented, that there is no remoteness loading, as there is a strong conceptual case that such costs exist.

Absent an ability to control for relevant factors, the Territory supports either retaining the 2020 method, applying the general regional gradient, or a service-delivery scale assessment similar to prisons, accepting that a discount would be appropriate for the same reason as for prisons. In either case, this is agreed to warrant further consideration for the 2030 Review.

3.4. Prisons assessment

3.4.1. Are separate assessments of community corrections and juvenile detainees material?

The Territory notes the advice that the juvenile detainees assessment is not material on 2022-23 data, but will be retested as 2023-24 data becomes available. This approach is consistent with Commission guidelines.

3.4.2. Do data support an assessment of regional costs for prisons?

The Territory supports the new method, which is to cease the regional loading, previously quantified using 2016-17 costs based on the regression model, and replace it with the generic service delivery scale adjustment, with a 25% discount.

The Territory notes the Commission's advice that prisons data does not appear suitable for a regression model, as indicated by a range of metrics. This does not mean that costs are unaffected by drivers such as remoteness or scale, but rather the limited data points and inability to separate cost factors, particularly the marginal cost of security, means a regression model is not a functionally appropriate approach.

While a regression approach may not be appropriate, the Commission's evidence of delivery scale costs is informative, with a gradient appearing for prison size, and prison size varying with remoteness. This suggests the scale adjustment nominated by the Commission is appropriate. In the alternative, consistent with the Courts assessment, the Territory considers the general regional gradient could be used, given prison size and remoteness are correlated, though notes the Commission's view that remoteness and scale are separate factors.

While the Territory generally does not support discounting, it is agreed discounting is consistent with Commission principles given the genuine difficulties to estimate underlying costs.

The Territory notes the Commission's discussion on potentially using a non-incremental gradient by grouping non-remote regions. This is not supported as the 25% discount already mitigates the impact, and if this were to occur, the discount should be removed as this may indirectly double-discount the result.