



SNAICC

National Voice for our Children

**Baseline Analysis of Best Practice Implementation of the
Aboriginal and Torres Strait Islander Child Placement Principle
Northern Territory**

April 2018

Introduction

This resource presents a baseline analysis of the progress of the Northern Territory in implementing the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) with reference to the best practice approach as set out in [Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle – A Resource for Legislation, Policy, and Program Development](#).

The baseline analysis considers the alignment of the five elements of the ATSICPP – prevention, partnership, placement, participation, and connection – with five interrelated system elements – legislation, policy, programs, processes, and practice. However, as the analysis reveals, there is significant interconnectedness and intersectionality of both the ATISCPP and system elements. Further, piecemeal compliance with a single or even several elements does not, and cannot, lead to the full realisation of the ATSICPP. Instead it is clear that holistic processes of reform are required to ensure full implementation and compliance with the ATSICPP’s intent to keep Aboriginal and Torres Strait Islander children safely connected to their families, communities, cultures, and country.

It is important to note that the baseline analysis has a particular focus on child safety, protection, and family support service systems and the work of government departments with primary responsibility for those systems, and so has some limitations to its scope. For example, the prevention element of the ATSICPP covers a broad scope of systems and multiple departmental responsibilities for universal service provision in areas such as health, education, and disability; however, these broader support systems are largely outside the scope of this review. Another important caveat is that the analysis is based on available documentation gathered through a desktop review and requests to state and territories for relevant documentation. State and territory governments have had opportunity to input to each baseline as have Aboriginal and Torres Strait Islander sector leaders.

The development of this resource – and equivalent analyses for each state and territory jurisdiction – has been guided by the work of the Aboriginal and Torres Strait Islander Working Group established under the *Third Three-Year Action Plan 2015-2018* for the *National Framework for Protecting Australia’s Children 2009-2020*. The Working Group is tasked with ensuring implementation of the ATSICPP throughout the Third Action Plan and as part of this work seeks, through the current analyses, to establish the current status of implementation in each state and territory in order to track and measure progress towards enhanced implementation.

Overview – Northern Territory

The legislative framework for child protection in the Northern Territory recognises a range of significant principles that reflect the rights of Aboriginal and Torres Strait Islander children to maintain cultural, family, and community connections. These include principles that require respect for culture, removal only if there is ‘no other reasonable way to safeguard’ a child’s wellbeing, prioritisation of safe return to family, and participation of children and family members in decision-making. However, there are clear deficits in policy commitments, programs – particularly funded Aboriginal Community Controlled Organisation (ACCO) operated programs – or enabling processes that translate these legislative principles into practice. There is a notable lack of legislative and policy focus on preventative and early intervention measures, as well as on requirements to make practical efforts for safe and timely reunification. In particular, there is no legislative requirement for supports to be provided to families before an order removing parental responsibility, including a permanent care order, is made.

The underdevelopment of the Northern Territory ACCO sector is a major shortfall that cuts across every element of the Aboriginal and Torres Strait Islander Child Placement Principle. The lack of: engagement and co-design in policy and programming; support and capacity building of the ACCO sector; and effective participation of ACCOs in child protection decision-making and family support service provision demonstrates limited compliance with the partnership element of the ATSI CPP.

It is not apparent that Aboriginal and Torres Strait Islander children and families are provided with effective and appropriate opportunities to participate in decision-making processes. The legislatively designed mediation process does not operate in practice and does not reflect best practice in terms of being a culturally safe and appropriate process reflective of an Aboriginal and Torres Strait Islander Family-Led Decision-Making model. A trial of Family Group Conferencing in Alice Springs in 2011-2012 which was independently evaluated showed promise to ensure children were placed within their Aboriginal kinship networks, but has not been extended or expanded.

A further concern of current Northern Territory practice is that there is no clear requirement, commitment and resourcing of care plans that ensure connections to family, community, culture and country. In particular, there are no specific requirements for child, family or ACCO participation in the design, implementation and monitoring of care plans. While the Children’s Commissioner has conducted a review of a small number of care plans, there is no representative review that can demonstrate best practice compliance at ensuring connections.

In the Northern Territory, as at June 2016 Aboriginal and Torres Strait Islander children are 11.1 times more likely than non-Indigenous children to be in out-of-home care (OOHC). Of all the children in OOHC, 89.15 per cent are Aboriginal and Torres Strait Islander. Only 30.1 per cent of Aboriginal and Torres Strait Islander children in OOHC are placed with Aboriginal and Torres Strait Islander kin or other family. These statistics and the underdevelopment of the ACCO sector are alarming and demonstrate that the Northern Territory has a significant way to go to achieve compliance with the intent of the Aboriginal and Torres Strait Islander Child Placement Principle.

In this context, where the vast majority of children involved in the child protection system and residing in OOHC are Aboriginal and Torres Strait Islander, the absence of a dedicated Commissioner for Aboriginal and Torres Strait Islander children in the Northern Territory is particularly notable.

While Territory Families (the Department) has improved transparency and accountability by recently making several key policies publically available on its website and committing to periodically review compliance with the ATSI CPP, at present there remains a lack of reporting on and monitoring of compliance with the ATSI CPP by Territory Families or any independent body.

Recent commitments to implement recommendations of the *Royal Commission into the Protection and Detention of Children in the Northern Territory (NT Royal Commission)* indicate the intention of the Northern Territory Government to address many of these issues. As set out in the *Territory Families 2017 Annual Report and Strategic Plan*¹, Territory Families is undertaking major reforms to its family support and child protections system, including legislative reform to be progressed through consultation; a greater focus on prevention and early intervention; commitment to the Family Matters campaign through the signing of the Statement of Commitment which includes core principles for working with Aboriginal people and organisations; more support to build the capacity and role of ACCOs in the child, youth and families sectors; a dual pathway system for reports and referrals to child protection; and the transition of out of home care services to the non-government sector within seven years.

The transition of out-of-home care to the non-government sector includes plans to invest in ACCOs that can work with children in care in culturally safe and sustainable ways. In accordance with Recommendation 33.12 of the NT Royal Commission, the outsourcing of OOHC will also incorporate an out-of-home care accreditation framework, an outcomes and performance reporting framework and more robust oversight mechanisms. It is also directly linked to the Government’s two election commitments, to 1) ‘grow and develop Indigenous non-government organisations focused on looking after children in out-of-home care’ and 2) that ‘Indigenous children requiring care will be supported by extended Aboriginal families’.

The NT Government has announced its in-principle support to NT Royal Commission recommendations 40.1 and 40.2 to replace the Children's Commissioner with a Commission for Children and Young People, with jurisdiction for all children and young people in the Northern Territory, and two Commissioners, one of whom will be an Aboriginal person.

NOTE: The materials reviewed for this analysis were compiled throughout 2017 prior to the NT Government releasing its response to the NT Royal Commission on 1 March 2018. As such, it does not fully reflect emerging policy directions in response to the NT Royal Commission. It is expected that the next stage of measuring progress against the baseline will reflect implementation of the broad agenda for reform emerging from the NT Royal Commission.

LEGISLATION

Refers to the *Care and Protection of Children Act 2007* (NT) unless otherwise stated

PREVENTION	PARTNERSHIP	PLACEMENT	PARTICIPATION	CONNECTION
<p>Northern Territory legislation contains relatively strong principles regarding the primary role or 'responsibility' of family for the care, upbringing and development of a child (s8(1)), a child and family's right for a child to be brought up in language, tradition, and culture (ss8(2), 9(2)(b), 10(g)(h) – the latter being a best interest consideration) and the 'responsibility' of the State to support families (s7).</p> <p>Further, s8(3) states that a child may only be removed from family if there is 'no other reasonable way' to safeguard wellbeing. Section 8(4) goes on to state that 'as far as practicable' and consistent with best interests, if a child is removed, contact with family should be encouraged and supported, and the child should eventually be returned to family.</p> <p>The Act provides an inclusive definition of 'relative' and 'family' as including persons related by way of customary law or tradition, or contemporary custom or practice (ss18, 19).</p> <p>The Act contains a relatively weak safeguards against giving a non-parent parental responsibility under a long-term parental responsibility direction (a direction in a protection order allocating parental responsibility for more than 2 years) – that such a direction cannot be made unless the court is satisfied that the transfer of responsibility is 'the best means' of safeguarding wellbeing, and 'there is no one else who is better suited' to be given the responsibility</p>	<p>Northern Territory legislation recognises Aboriginal self-determination (s12(1)), however, does not go on to effectively enable independent or representative participation. While section 12(2) provides that a representative organisation or community of Aboriginal people nominated by family 'should be able to participate' in decision making, there are no enabling provisions defining 'representative organisation', mandating participation or even attempts at participation before decisions are made, or requiring a recommendation of an Aboriginal person or agency regarding permanent care order decisions.</p> <p>In relation to mediation conferences – which may be initiated by the Department (with the agreement of parents) or court ordered (ss49, 127) – the Regulations instruct that the convenor must have regard to section 12(2) (above) when determining who to invite to a conference (regulation 5 <i>Care and Protection of Children (Mediation Conferences) Regulations 2010</i> (NT)).</p> <p>While section 303 allows for delegation of the functions and powers of the CEO of the Department, it is not apparent that this has been designed to delegate functions and powers to Aboriginal and Torres Strait Islander organisations.</p>	<p>Section 12 aligns with some important aspects of best practice, however, is limited by the use of the qualifier 'as far as practicable', and includes no requirement for ACCO participation in decision making. The section provides that 'as far as practicable', an Aboriginal child 'should' be placed with – in this order – 'a member of the child's family', 'an Aboriginal person in the child's community in accordance with local community practice', 'any other Aboriginal person', or a non-Indigenous person who in the Department's opinion is 'sensitive to the child's needs and capable of promoting the child's ongoing affiliation with culture (and if possible ongoing contact with family)'. Further, 'as far as practicable', a child 'should' be placed in close proximity to the child's family and community.</p> <p>The section does state that kin, a representative organisation or community 'should be able to participate' in decision-making, however, this is not mandated and there are no systems in place to ensure that this is implemented at an operational level (see 'Participation').</p>	<p>Generally, decisions 'should' be made with the 'informed participation' of the child, family and other persons who are significant in the child's life (s9(2)). Section 11 lists enablers for informed child participation, including opportunity to express views that are taken into account having regard to maturity and understanding.</p> <p>In relation to judicial decision-making, the court must consider the wishes of the child, parents, person proposed to be given daily care and control (DCC) or parental responsibility, and any other person with a direct and significant interest (interest) in the child's wellbeing (s130(1)(b) re protection orders, s137H re permanent care orders).</p> <p>A child is necessarily a party to court proceedings (ss94(1)(a), 125(2)(a)) and may be provided with a legal representative if in their best interests (s143A). It is presumed that a child 10 years and older is able to provide direct instructions, otherwise, will be represented on a best interests basis (s143B).</p> <p>Parents are necessarily parties to proceedings (though not in relation to permanent care orders: s137D) and other persons may be parties if it is proposed that they hold DCC or parental responsibility, or if they have an interest in the child's wellbeing (ss94, 125). The court must, as far as practicable, ensure each party understands the proceedings – and may direct that services such as an interpreter be provided (s98). A party has a right</p>	<p>The Act contains several strong principles that recognise a child's right to family, culture, and contact – right to be brought up in language, tradition, and culture (ss8(2), 9(2)(b), 10(g)(h)), and presumption that for a child in OOHC, 'as far as practicable' and consistent with best interests, contact with family should be encouraged and supported, and the child should 'eventually' be returned to family (s8(4)).</p> <p>There are express provisions allowing the court to restrict contact and regulate it by supervision on an interim order on adjournment or a protection order (ss123(2), 139(1)(d), 139(5)), however, there are no express provisions for directions or orders that would allow or require contact. Where a protection order gives daily care and control or parental responsibility to the Department, it 'must provide opportunity' for contact with parents and other family 'as often as is reasonable and appropriate' (s135(1)(b)). Decisions about contact must be set out in the child's care plan (s70(2)(c)(ii)).</p> <p>In relation to permanent care orders, section 137F expressly prohibits the making of any direction other than one that authorises overseas travel without parental consent. This means no contact can be ordered on a permanent care order and no other requirements for maintenance of child's family or cultural connections can be imposed.</p> <p>Despite the principle that a child</p>

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<p>(s130(2)). There is no requirement for a demonstration of any or reasonable efforts at reunification. In a similar way, the only real safeguard against the making of a permanent care order is that the court must be satisfied that a child is in need of protection, the order is the best means to safeguard wellbeing, and the proposed permanent carer has demonstrated their suitability (s137G).</p> <p>While section 44 provides that the Department may provide and fund child-related services (defined as a range of social services by s13), there is no provision requiring or even encouraging referral to family support services.</p>			<p>of legal representation and the court may adjourn to provide a reasonable opportunity for this (s101). However, in certain circumstances, the court may proceed and make an order in the absence of the parents (ss105(5), 126(1), including in relation to permanent care orders: s137E) despite section 100 requiring attendance of parents.</p> <p>The court may also hear submissions from a non-party, such as a family member, and these persons may have a legal representative make these submissions on their behalf (s148). Mediation conferences may be initiated by the Department (if the parents agree) to address concerns about a child's wellbeing, or by court order (ss49, 127). The Act and Regulations assume the participation of the child, parents, and 'appropriate' family members. A child may also participate in the development of a care plan (wishes taken into account: s72) and a child, parent, carer, and other person with an interest may participate in the review of a care plan (regard had to views: s74(4)).</p>	<p>should be eventually returned to family (see above), the Act does not contain any safeguards protecting against the making of long-term orders without attempts at reunification (protection order with a long-term parental responsibility direction (s130(2), permanent care order: s137G)). There are also no specific requirements for demonstrated commitment of carers to the maintenance and development of a child's cultural connections before these orders are made. Care plans are required for all children in the Department's care (s70). The plan must identify the child's needs, outline measures to meet those needs, and set out decisions regarding matters such as placement and contact (s70(2)). Requirements for 6 monthly review or plans are provided (s74) and for having regard to the views of the child, parents, carer and other significant persons in creating plans (s72,74). There is no specific reference to addressing cultural connections or needs in case plans.</p>

POLICY

PREVENTION	PARTNERSHIP	PLACEMENT	PARTICIPATION	CONNECTION
<p>A relevant prevention focused policy is the Northern Territory’s consideration of Aboriginal child health outcomes, endorsed by the Northern Territory Aboriginal Health Forum – <i>What are the Key Services needed to Improve Aboriginal Child Health Outcomes – Progress and Possibilities</i>.²</p> <p>The Department has published a Family Intervention Framework, which briefly defines services to reduce child protection involvement and prevent children entering and remaining in OOHC and how those services are targeted.³ In the past, the Department noted only briefly in its Annual Report that part of its budget and work includes support to prevent child protection involvement.⁴ The Department has published policies describing the operation of Parent and Family Support Services and its internal casework support approach, <i>Strengthening Families</i>.⁵ However, these policies are more related to service operation than systemic commitment to prevention and early intervention (see ‘Programs’). There is some acknowledgement of Aboriginal kinship and child rearing practices, but this is found in process documents, and is not set out as a clear policy position (see ‘Processes’ below).</p> <p>It is promising that the Northern Territory Government has recently developed an early childhood strategy, with some acknowledgement and actions targeted at Aboriginal children and families.⁶</p> <p>Further, Territory Families now more clearly commits to prevention</p>	<p>For a long time, there were no publically available policy documents that reference or commit to partnership in any of the identified best practice ways – this included no commitment to co-design by ACCOs or a peak body, no support or prioritisation of ACCO case management or ACCO custody or guardianship, and no support for ACCO capacity building for participation and service delivery.</p> <p>The only reference to community participation was found in the <i>Standards of Professional Practice</i>.⁸ This is a relatively weak position that echoes the legislative allowance (not requirement) that an Aboriginal organisation ‘is able’ to participate in child protection decision making, with the added qualifier of ‘if they have been selected to do so by the child’s family’.</p> <p>While the Northern Territory child and family welfare ACCO sector is clearly under-resourced and undervalued, including the disbanding of the peak body, there is significant current capacity within the Aboriginal health sector to provide family support services, parenting programs, identification and support for Aboriginal kinship carers, and child health/development assessments etc. The ACCO health sector have been involved in promising discussions with the Department regarding initiatives, including a review of cases of Aboriginal children on long-term orders with a view to support for family reunification, and development of a process for referral of ‘low-risk’</p>	<p>Preference for placement within a child’s immediate or extended family (for all children) and compliance with the legislated placement hierarchy of the ATSI CPP is emphasised in several documents.¹¹ In relation to all children, the <i>Annual Report 2015-2016</i> states that ‘the search for suitable placement options within the child’s immediate and extended family occurs until all options have been exhausted’.¹²</p> <p>Otherwise, there is no other policy reference or emphasis on reviewing lower-priority placements, participation of family and ACCOs in placement decision-making, or ACCOs’ role in kinship carer and other placement identification, assessment, and support.</p> <p>In 2017 the Department provided some funding to SNAICC – National Voice for our Children and APO NT to develop an Aboriginal OOHC Strategy to create and build Aboriginal-led and managed OOHC services in the Northern Territory. This will include drafting a service model and strategy for establishing an Aboriginal OOHC service sector that among other things, prioritises the placement of Aboriginal children with Aboriginal kinship and foster carers.</p>	<p>Northern Territory policy documents state that families are integral to decision making about their children.¹³ However, there is no policy commitment or provision for family participation through mediation or other conferencing means supported by ACCOs such as Aboriginal and Torres Strait Islander Family Led Decision-Making.</p> <p>Recent commitments to implement recommendations of the NT Royal Commission indicate the intention of the Northern Territory Government to address these issues, including the introduction of a Family Group Conferencing model into child protection practice, designed in partnership with ACCOs and children and families.</p>	<p>There are no publically available overarching policy documents that emphasise the importance of maintaining and developing connections to family, community, culture and country, beyond those already noted in relation to placement. However, recognition of the importance of these connections may be inferred to some extent from policy documents that promote family contact, sibling co-placement, reunification, and care plans.¹⁴</p> <p>In relation to care plans, the <i>Standards of Professional Practice</i> go further than legislation to specify that such plans are to identify how cultural needs will be met.¹⁵ The only reference to family participation in the development of these plans is noted in the Department’s <i>Annual Report 2015-2016</i>.¹⁶ Otherwise, there is no invitation or encouragement of family or ACCO participation in the development, implementation, or review of these plans.</p> <p>The <i>Standards and Policy – Reunification</i> repeat the legislative principle prioritising safe reunification.¹⁷</p> <p>Though it has not yet significantly progressed, the Northern Territory Government’s commitment to the transfer for OOHC case management to NGOs is also relevant here.¹⁸</p>

POLICY

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<p>and early intervention approaches and programs.⁷</p>	<p>matters to health services. The Aboriginal Peak Organisations NT (APO NT) have developed a set of Partnership Principles designed to guide the development of partnerships for non-Aboriginal organisations to engage in the delivery of services or development initiatives in Aboriginal communities in the Northern Territory.⁹ The adoption, commitment, and implementation of these principles by the Department and government represents a good first step to genuine partnership. Another recent promising shift towards partnership and self-determination is the Northern Territory's commitment to ACCO capacity building and transfer of OOHHC case management.¹⁰ The Minister for Children and Families' signing of the Family Matters Statement of Commitment is another promising step, though the commitments and principles relating to genuine partnership and self-determination need to be realised.</p>			

PROGRAMS

PREVENTION	PARTNERSHIP	PLACEMENT	PARTICIPATION	CONNECTION
<p>The <i>Family Intervention Framework</i> consists of four service components – child safety intervention, intensive family preservation, reunification support, and relative and kinship carer support.¹⁹ <i>Policy – Family and Parent Support Services</i> sets out Department support services.²⁰ Intensive family preservation services have been tendered to external providers, however this includes only one ACCO.²¹ The Department also has also supported a Targeted Family Support Program, however again only one program is ACCO-run.²² It appears however that this service was defunded at the end of the 2015-2016 financial year when the Department opted to fund an alternate service model that does not require the same level of highly skilled staff.</p> <p>The Remote Family Support Service, funded by the Commonwealth Government, operates in 18 remote communities and while is not ACCO-run, does employ local Aboriginal people who are ‘fluent in both culture and language’.²³ However, difficulties in engagement are common and likely given this service is run by Territory Families.</p> <p>The Commonwealth Government also funds Intensive Family Support Services (IFSS) for families with a risk of recurring child neglect, aiming to ‘help families keep children in their homes, in their communities and out of the child protection system’. There are several ACCOs delivering IFSS. Eligibility is closely tied to</p>	<p>There are no Department funded or supported programs for ACCO participation in child protection decision making. While there could be an opportunity for ACCOs to participate through legislatively provided mediation conferences, these are not designed as ACCO-operated Aboriginal and Torres Strait Islander Aboriginal and Torres Strait Islander Family Led Decision-Making (ATSIFLDM) and in fact are not occurring in practice²⁶ – see further ‘Participation – Practice’ below.</p> <p>There are no funded ACCO-led or operated programs such as ATSIFLDM, case management, custody and guardianship, peak body involvement in system design, sector representation and sector development, or even ACCO training and review of mainstream service’s cultural competency.</p>	<p>The Department’s <i>Foster Carer Attraction, Recruitment and Retention Strategy 2015-2016</i> seeks to support foster carers, including Aboriginal carers, and to recruit Aboriginal kinship and other carers through ‘talking posters’ and radio advertisements in language.²⁷ The Northern Territory Government-run Carer Community website provides information about financial support, training, and other support for kinship and other carers. The Department provides training for carers that ‘includes an introduction to Aboriginal culture’.²⁸ There are no other Department programs and no ACCO-led programs that provide kinship and family scoping, placement identification, assessment and support, ATSIFLDM or similar, or reconnection efforts to place children back with family and community.</p> <p>A recent promising shift has been the Department’s expanded funding to Tangentyere Council, an ACCO in Central Australia, to find suitable kinship care placements for Aboriginal children, and to attract, engage, retain and support Aboriginal carers.</p>	<p>In terms of child, family and community participation, although legislation provides for mediation conferences, these do not operate in practice (see ‘Practice’ section below). In any case, these conferences were not designed as ACCO-operated ATSIFLDM or similar.</p> <p>General legal services and Aboriginal and Torres Strait Islander legal services, including family violence prevention and legal services may provide government-funded legal advice and representation to children, parents and family members in child protection matters.</p>	<p>There are no government funded programs (ACCO operated or otherwise) that enable family and community to participate in care planning or implement contact arrangements or care/cultural plans. There is no ACCO case management or custody and guardianship. Family support programs, including those focused on achieving reunification, are run by several ACCOs in Central Australia.</p> <p>The Department does highlight one promising program/service – the Community Based Children’s Care Service in Tennant Creek. This service allows children in the local region to remain in Tennant Creek, ‘close to family connections’, while foster or kinship carers are found. While this service aims to ensure children maintain family and community connections, it is run by a mainstream service – Lifestyle Solutions.²⁹</p>

PROGRAMS

PREVENTION	PARTNERSHIP	PLACEMENT	PARTICIPATION	CONNECTION
<p>concurrent referral to child protection income management and preferencing of families already subject to this.</p> <p>Where an assessment has determined that future harm to a child is a low or moderate risk, the child protection case may be closed and a Strengthening Families case opened (with the consent of the parents). Ongoing Strengthening Families case management includes identification of supports required.²⁴</p> <p>While not a specific program, the Department operates a system of 'preventative family care payments' to reduce the risk of harm and subsequent likelihood of removal into OOHC. These payments are described as a casework tool.²⁵</p>				

PROCESSES

PREVENTION	PARTNERSHIP	PLACEMENT	PARTICIPATION	CONNECTION
<p>While the <i>Care and Protection Policy and Procedures Manual</i> is not publically available, some understanding of processes can be gained from the Department's <i>Standards of Professional Practice, Practice Framework</i> and other policy documents.³⁰</p> <p>The <i>Standards</i> state that 'where appropriate, families are referred to relevant services to receive ongoing assistance and/or specialised services' and this is to be recorded on the case file.</p> <p>There is some recognition of culture that may lead to more appropriate risk assessment and safety planning. While not expressly referencing these processes, the <i>Tune into Little Ones</i> resource recognises and values Aboriginal kinship and care systems, instructing workers to learn and understand these practices,³¹ and the <i>Practice Framework</i> describes culture as a source of strength and resilience, recognising the importance of extended kinship networks and cultural strengths in child rearing practices.³²</p>	<p>There are no process or practice documents that require or enable community or ACCO participation in child protection decision making. As set out above in 'Policy', there is only a passing reference in the <i>Standards of Professional Practice</i> that Aboriginal organisations are able to participate if selected by the child's family.³³ This does not require timely or informed participation in any decision making, let alone all significant decision making, starting at notification.</p> <p>There are no other references or requirements in any available documents that otherwise set out processes that align with best practice – there are no processes that require recording outcomes of participation or require participation in court proceedings. There are no guidelines for ACCO case management or delegation of custody and guardianship to ACCOs.</p> <p>A recent promising shift to build relationships on the ground and work more closely with members of the local community is the Department's support for the Mikan Child Protection Reference Group in East Arnhem. Mikan was started in February 2017 to provide a link between Territory Families, the communities, and Mala (clans) in the Nhulunbuy region, and to build constructive relationships. The group shares information and promotes child protection awareness within the communities and discusses high risk cases to work together as a group to make safe plans for the child. This encourages participation in</p>	<p>While a <i>Policy – Placements</i> document exists to guide the <i>Standards of Professional Practice</i>, it provides no specific processes to ensure legislative and policy commitments to the placement hierarchy are met.³⁴ It merely restates the hierarchy and premise that all placement options within family are to be exhausted – it does not set out how this is to be done, that it should be done with culturally appropriate assessment methods, that it should be recorded or that lower-level placements are to be regularly reviewed with a goal to reconnect with a prioritised placement.</p> <p>In terms of guidance on kinship structures and care practices, there is only passing reference to the importance of kinship networks and cultural strengths in child rearing practices in the <i>Practice Framework</i>.³⁵ There is no guidance on how this acknowledgment informs placement decision-making. Similarly, the resource <i>Tune into Little Ones</i> discusses kinship and care systems but does not expressly guide decision-making or practice.³⁶</p> <p>There are no processes that enable family or ACCO participation in placement decision-making.</p>	<p>The <i>Practice Framework</i> and <i>Standards of Professional Practice</i> state the intention to involve families in decision-making and to ensure they have the information and support, such as interpreters, they require to understand and participate – 'this includes information about legal processes and access to representation'.³⁷ This also involves 'encouraging' the child, parents, and significant others to participate, with 'continued attempts' to be made when individuals are reluctant or refuse to engage.³⁸</p> <p>The <i>Standards</i> provide specific guidance regarding child participation, setting out that where a child is required or wishes to attend court, the child is to be assisted to attend and understand matters by the Department. Further, the Department must assist the child's legal representative by providing necessary information and assisting with arranging meetings. However, there are no processes that detail culturally safe and supported participation such as through ATSIFLDM, guidance on consulting children in a culturally safe manner, or requirements to record and detail consideration of views.</p>	<p>There are no process or practice documents that provide guidance on assessing and meeting cultural needs. However, incidentally through other policy documents, some guidance can be found – care plans must document family contact arrangements and these must be reviewed on a regular basis as part of the case review process or if a significant event occurs.³⁹ The importance of sibling relationships and preference of placing siblings together in care is noted.⁴⁰ For carers, very limited guidance is provided to keep children connected with family and culture. The Department's <i>Carer Community</i> website lists suggested activities and then refers carers to the allocated case worker, Aboriginal Community Worker, or other cultural advisor.⁴¹</p> <p>In terms of reunification, it is set out that contact increases the likelihood of family reunification,⁴² the reunification process begins as soon as a child is placed in OOHc but it ends if reunification is determined to be no longer viable.⁴³ The reunification policy document sets out that family members should be provided with accurate information about the reunification process, timeframes and expectations must be communicated in appropriate language and style, and they must be engaged in case planning in order to develop a realistic understanding of the possibility of reunification. The document states that 'parents and extended family should have access to appropriate and timely services necessary to facilitate ... sustainable</p>

PROCESSES

PREVENTION	PARTNERSHIP	PLACEMENT	PARTICIPATION	CONNECTION
	<p>decision-making and aims to keep children in community and diverted away from the child protection system.</p>			<p>reunification'. The document also states that consideration will be given to the ATSCPP and other specific language and cultural needs of the child and family. For permanent care orders, there is instruction that for Aboriginal children to be considered for an order, they must have their needs and proposed care arrangements assessed under the ATSCPP and the decision-making process must be documented in detail.⁴⁴ A Permanent Care Order Panel must endorse an application before the Department proceeds to make an application for an order to the court. While there is a reference to 'cultural advisors' on the panel, this is not specified as a representative Aboriginal community member.⁴⁵</p>

PRACTICE

PREVENTION	PARTNERSHIP	PLACEMENT	PARTICIPATION	CONNECTION
<p>The proportion of Northern Territory spending on intensive family support services and family support services in relation to total child protection spending has increased significantly from 2.43% in 2011-2012 to 22.46% in 2015-2016.⁴⁶ However, this is significantly less than the 50% relative percentage investment recommended by the 2010 Inquiry into the child protection system.⁴⁷ There is no available data on the proportion of Aboriginal and Torres Strait Islander children in the NT commencing intensive family support services since 2014-2015. This is reported because ‘the NT did not fund services that met the definition of prevention or reunification services’.⁴⁸ There is no other data available on access to family support services for Aboriginal and Torres Strait Islander children and families. In the NT, Aboriginal and Torres Strait Islander children represented 89.15% of all children in OOHC as at 30 June 2016, an increase from 81.86% as at 30 June 2012.⁴⁹ Aboriginal and Torres Strait Islander children were 11.1 times more likely than non-Indigenous children to be in OOHC at 30 June 2016, an increase from 6.1 times as likely at 30 June 2012.⁵⁰ As at 30 June 2016, 3.45% of all Aboriginal and Torres Strait Islander children in the NT were in OOHC, an increase from 2.15% at 30 June 2012.⁵¹</p>	<p>Very limited government funding is provided to the ACCO sector in the Northern Territory. As set out above in ‘Policy’, there is no recognition, commitment or prioritisation for ACCO capacity, service design and/or delivery, or participation in decision-making. There are no available measures of partnership practice, however, it is clear from the lack of strong legislation, policy, programs and processes that practice is poor. Further, there is no apparent practice review of ATSICPP implementation.</p>	<p>The proportion of Northern Territory Aboriginal and Torres Strait Islander children placed with Aboriginal or Torres Strait Islander kin or other family, or an Aboriginal or Torres Strait Islander home-based carer has fallen from 38.1% as at 30 June 2012 to 36.2% as at 30 June 2016.⁵² However, in terms of the first preferred placement, as at 30 June 2016, only 30.1% of children were placed with Aboriginal and Torres Strait Islander kin or other family, an increase from 27.8% at 30 June 2012.⁵³ There are no available measures of whether high-priority placements are maintained through kinship care supports, all placement options are exhausted in order of hierarchy, or there is regular review of lower-level placements with higher-level placements made as soon as possible. The Children’s Commissioner for the Northern Territory has reported a trend in complaints regarding inadequate and/or inappropriate kinship placements for children in remote areas.⁵⁴</p>	<p>Mediation conferences as envisaged by Northern Territory legislation – either initiated by the Department or court-ordered – do not operate in practice.⁵⁵ This means there is no effective program or process through which children and families can participate in non-judicial child protection decision-making, and to some extent judicial decision making. The Department does not reference any commitment to initiate mediation conferences or more culturally safe processes such as ATSIFLDM. This is despite a promising trial – funded by the Department – of family group conferencing in Alice Springs in 2011-2012.⁵⁶ While Aboriginal and Torres Strait Islander legal services exist to assist children and families, underfunding of these services, late referral to these services by the Department and underfunding of interpreter services weakens the effective participation of children and families in judicial decision making.⁵⁷</p>	<p>There is no reporting on the completion, quality, implementation or review of cultural care plans. While the Department states that throughout 2015-2016, 800 approved care plans were maintained while other plans cycled through review,⁵⁸ there is no breakdown of whether these care plans were for Aboriginal and Torres Strait Islander children or appropriately addressed cultural support needs. The Children’s Commissioner for the Northern Territory conducted a care plan review of a random sample of cases, finding that 80% of Aboriginal children had a plan that adequately addressed their cultural needs.⁵⁹ The review considered a total sample of 105 cases – 10% of all cases – and 97 of these cases were of Aboriginal children. It is unclear what criteria was used to determine adequacy of addressing cultural needs. The Department does not report on contact or reconnection, and in relation to reunification only stated that the ‘vast majority’ of the 304 children leaving care in 2015-2016 returned to family.⁶⁰ The Children’s Commissioner reported the Department’s figure as 195 cases that were closed with return to family – there is no breakdown as to whether these cases involved Aboriginal and Torres Strait Islander children.⁶¹ Considering that as at 30 June 2016, there were 1,032 in OOHC, this reunification percentage is not insubstantial. In relation to contact, the Children’s Commissioner reported a trend in complaints regarding inadequate</p>

				contact between children in OOHC, and family and significant others. No permanent care orders were made in the Northern Territory as at 1 July 2016, despite 'a level of interest' received by the Department. ⁶² Since then, the Department reports that one permanent care order has been made in 2016-2017, though it is not specified whether this is in relation to an Aboriginal and Torres Strait Islander child. ⁶³
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² Northern Territory Aboriginal Health Forum (AMSANT, NTG), *What are the Key Services needed to Improve Aboriginal Child Health Outcomes – Progress and Possibilities*, April 2016, available at <http://www.amsant.org.au/wp-content/uploads/2017/08/What-Are-the-Key-Core-Services-Needed-to-Improve-Aboriginal-Childhood-Outcomes-in-the-NT-Report-FINAL.pdf>

³ See https://childrenandfamilies.nt.gov.au/_data/assets/pdf_file/0003/234066/Family-intervention-framework-specifications.pdf

⁴ Department of Children and Families, Northern Territory Government, *Annual Report 2015-2016*, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0010/379594/Department-of-Children-and-Families-annual-report-2015-16.pdf

⁵ Territory Families, Northern Territory Government, *Policy – Parent and Family Support Services*, January 2017, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0009/434763/family-and-parent-support-policy.pdf; Territory Families, Northern Territory Government, *Policy – Strengthening Families*, June 2017, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0011/434765/strengthening-families-policy.pdf

⁶ Northern Territory Government, *Great Start, Great Future – Northern Territory Early Years Strategic Plan 2016-2020*, available at https://education.nt.gov.au/_data/assets/pdf_file/0006/275901/DoE_Strategic-Plan.pdf

⁷ Territory Families, Northern Territory Government, *Annual Report 2016-2017*, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0019/452521/territory-families-annual-report-2016-17-web.pdf; Territory Families, Northern Territory Government, *Strategic Plan 2017-2020*, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0004/449572/Territory-Families-Strategic-Plan-2017-2020.pdf

⁸ Department of Children and Families, Northern Territory Government, *Standards of Professional Practice*, March 2014, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0019/234046/standards-of-professional-practice.pdf

⁹ See <http://www.amsant.org.au/apont/wp-content/uploads/2015/02/21070504-APO-NT-Partnership-Principles-Updated-version.pdf>

¹⁰ Territory Families, Northern Territory Government, *Annual Report 2016-2017*, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0019/452521/territory-families-annual-report-2016-17-web.pdf; Territory Families, Northern Territory Government, *Strategic Plan 2017-2020*, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0004/449572/Territory-Families-Strategic-Plan-2017-2020.pdf

¹¹ Department of Children and Families, Northern Territory Government, *Annual Report 2015-2016*, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0010/379594/Department-of-Children-and-Families-annual-report-2015-16.pdf; Department of Children and Families, Northern Territory Government, *Standards of Professional Practice*, March 2014, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0019/234046/standards-of-professional-practice.pdf; Territory Families, Northern Territory Government, *Policy – Placement*, February 2017, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0011/425756/placements-policy.pdf

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