

REVIEWING IMPLEMENTATION OF  
THE ABORIGINAL AND  
TORRES STRAIT ISLANDER  
CHILD PLACEMENT  
PRINCIPLE  
AUSTRALIAN CAPITAL  
TERRITORY  
2019



**SNAICC**  
National Voice for our Children

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## 1. Introduction

This report reviews the progress of the Australian Capital Territory (ACT) Government in implementing the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP). This review is conducted on the basis of the best practice approach set out in SNAICC, 2017, [\*Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle – A Resource for Legislation, Policy, and Program Development\*](#) and SNAICC, 2018, [\*The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation\*](#).

It considers changes in the implementation of the five elements of the ATSICPP – prevention, partnership, placement, participation and connection – described in the diagram below across five interrelated system elements, since the comprehensive baseline analysis SNAICC released in April 2018 (2018 Baseline Analysis).<sup>1</sup> These system elements are legislation, policy, programs, processes and practice. The current review therefore only considers ATSICPP implementation efforts over the past year (from 1 May 2018 – 30 April 2019).

It is important to note that the review is somewhat limited in scope. It 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. 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.

This review is based on available documentation gathered through a desktop review and input provided by the ACT Government and Aboriginal and Torres Strait Islander sector leaders.

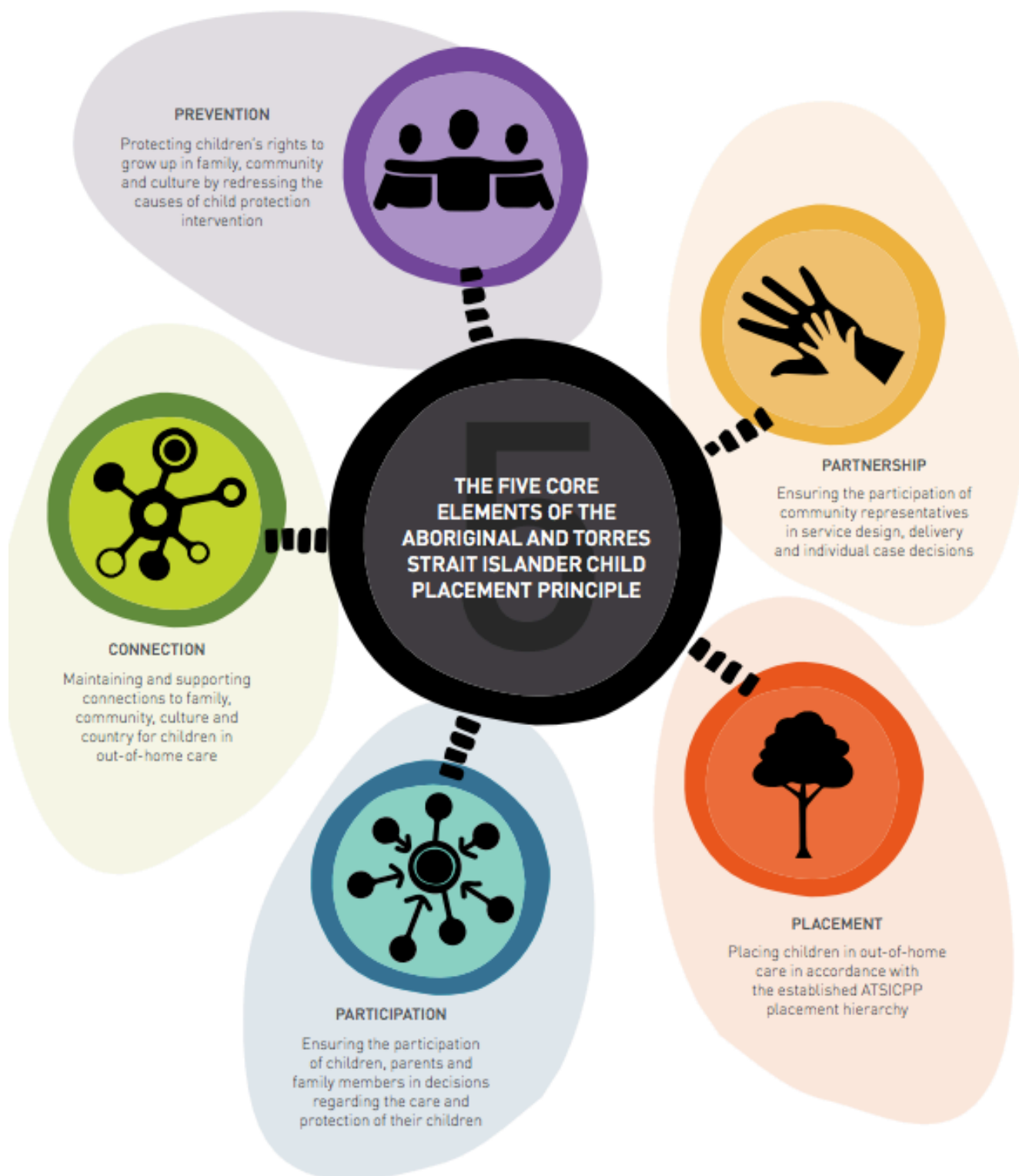
The Aboriginal and Torres Strait Islander Working Group for the National Framework for Protecting Australia's Children has guided the development of this report and equivalent reviews for each state and territory jurisdiction. The Working Group is tasked with ensuring implementation of the ATSICPP in line with the agreement under the Fourth Action Plan to “uphold the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle to recognise the rights of Aboriginal and Torres Strait Islander children to be raised in their own culture and the importance and value of their family, extended family, kinship networks, culture and community.”<sup>2</sup>

The purpose of this review, which will take place annually for all Australian states and territories, is to establish the current status of implementation of the ATSICPP in each state and territory in order to measure progress towards enhanced implementation.

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<sup>1</sup> SNAICC – National Voice for our Children (2018). Baseline Analysis of Best Practice Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Australian Capital Territory. Available at <https://www.snaicc.org.au/policy-and-research/child-safety-and-wellbeing/baseline-analyses-of-child-placement-principle/>.

<sup>2</sup> Commonwealth of Australia (2018). Fourth Action Plan 2018-2020: Supporting Families, Communities and Organisations to Keep Children Safe. Available at [https://www.dss.gov.au/sites/default/files/documents/01\\_2019/dss-fourth-action-plan-v6-web-final.pdf](https://www.dss.gov.au/sites/default/files/documents/01_2019/dss-fourth-action-plan-v6-web-final.pdf).



## 2. Overview – Australian Capital Territory

The Children and Youth Protection Services, Community Services Directorate (the Directorate) has demonstrated significant recent engagement with improving compliance with all elements of the ATSI CPP. This includes establishing a Steering Committee to assist in prioritising directions for implementation of the ATSI CPP; employing an Aboriginal and Torres Strait Islander Senior Policy Officer to implement the ATSI CPP into all policies and procedures; engaging SNAICC to conduct training for staff on embedding the ATSI CPP into practice; employing a designated Aboriginal and Torres Strait Islander Practice Leader position to identify best practice and opportunities for improvement, including in relation to the ATSI CPP; and developing a Practice Guide for staff and partners on culturally responsive practice with Aboriginal and Torres Strait Islander families with clear guidance on active efforts required to implement the five elements of the ATSI CPP. These were recommendations implemented from the *Our Booris, Our Way* review.

Key policy reforms have continued through this period, including the *Our Booris, Our Way* review and the *A Step Up for Our Kids* strategy. All recommendations of the review are in progress or have been completed, with the ACT Government driving some important improvements in early intervention. This includes a new pilot program - Functional Family Therapy through Child Welfare; a designated role to support effective processes to prevent children entering care; finalisation of a planned application procedure which requires family preservation efforts prior to consideration of a Care and Protection Order for an Aboriginal or Torres Strait Islander child; an early identification policy; and a significant increase in funding for family support and intensive family support services. It is still important to note, however, that the ACT's spending on family support and intensive family support services still comprised just 13.1% of total funding spent on child protection in 2017-18, below the national average expenditure of 17.1%.<sup>3</sup>

While self-determination has been included in the new ACT Aboriginal and Torres Strait Islander Agreement 2019-2028, legislation and policy on self-determination and the participation of Aboriginal and Torres Strait Islander people or organisations in child protection decision-making does remain weak, with no independent role or funding for Aboriginal or Torres Strait Islander community controlled organisations (ACCOS) to provide child protection specific advice or services. The new Practice Guide on culturally responsive practice does, however, include requirements for staff to seek information from ACCOS to support an accurate assessment of a child's safety. The establishment of new bodies like the Steering Committee advising on implementation of the ATSI CPP, the Safe in the Pouch Advisory Committee and the Aboriginal and Torres Strait Islander Co-Design Forum are also promising, as is the Directorate's initial feasibility study on ACCO provision of services. These initiatives have been accompanied by various efforts to strengthen cultural competency and Aboriginal and Torres Strait Islander voice internally. Significant investment has further been made in the last period to support family and child participation in decision-making through the Family Group Conferencing (FGC) model, which has demonstrated some significant results. 46 of 69 children participating in a FGC in the last two years have subsequently not entered into care.<sup>4</sup> While this is a significant step, it does not fully meet the ATSI CPP requirements, given that it is not ACCO-designed, developed or delivered.

The Directorate has strengthened family finding efforts conducted internally during this period and included more guidance to staff on procedures and active efforts required to ensure proper implementation of the placement hierarchy. However, there remains no provision of independent advice on the most appropriate care options, family finding or cultural care. In 2017-2018, 62.3% of Aboriginal and Torres Strait Islander children were placed with kin or other Aboriginal and Torres Strait Islander carers and 41.2% were placed with Aboriginal and Torres Strait Islander carers, with the latter significantly reduced from the previous year.<sup>5</sup> Permanency arrangements remain concerning; however, efforts to strengthen placements have seen positive results, with 16 children moved from a non-relative/kinship care placement to an Aboriginal and Torres Strait Islander kinship carer in 2017-18, and 17 children reunified with their birth parents. There remains no independent accountability mechanism, like an Aboriginal Children's Commissioner, to support implementation of these processes, despite the *Our Booris, Our Way* review recommendation.

There have been some significant positive shifts in the ACT in its implementation of the ATSI CPP during this period, with the implementation of Family Group Conferencing and broader commitment to Aboriginal and Torres Strait Islander community voice clear highlights. However, there is a significant way to go. Little appears to have changed in outcomes for Aboriginal and Torres Strait Islander children at this point, with the rate of over-representation increasing

<sup>3</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2018, Table 16A.7.

<sup>4</sup> Family Matters. (2019). The Family Matters Report 2018. Melbourne: SNAICC – National Voice for our Children.

<sup>5</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2018, Table 16A.21.

significantly from 13.9 times in 2016-17 to 16.3 times in 2017-18; although a significant drop in comparative rates entering care in 2018-2019 is promising.

### 3. Prevention

There have been no changes to legislation<sup>6</sup> in the ACT since the 2018 Baseline Analysis. In relation to policy, the ACT's Aboriginal and Torres Strait Islander Elected Body (ATSIEB) and the Government have developed a new ACT Aboriginal and Torres Strait Islander Agreement 2019-2028.<sup>7</sup> The agreement recognises Aboriginal and Torres Strait Islander peoples as Australia's first people and their right to self-determination. It seeks to action this in different ways, including through ensuring that the Government and community partners are guided by self-determination in the delivery of programs and services. A key area of focus of the agreement is to ensure that "Aboriginal and Torres Strait Islander children and young people growing up safely in their families and communities."<sup>8</sup> An accompanying Action Plan details a range of priority actions and clear targets it will periodically measure to assess progress in achieving this outcome.<sup>9</sup> This provides a strong mechanism for progress and accountability developed in partnership with the ATSIEB. Aboriginal sector leaders have highlighted that to be effective the agreement must be implemented in practice and in partnership with community organisations.

The *A Step Up for Our Kids* strategy and *Our Booris, Our Way* review continues, with the latter so far producing three sets of recommendations for improvements to practice and for preventing children entering care. The Directorate has informed that it has agreed with the intent of all recommendations and is either progressing or has completed all of them. \$1.744 million has been committed over four years to continue their implementation, with a focus on staff training and development, enhanced cultural practice leadership and embedding the ATSICPP into policies and practice. The Directorate is reporting on progress quarterly to the *Our Booris, Our Way* Steering Committee.<sup>10</sup> It has recently established an Aboriginal and Torres Strait Islander Child Protection Advisory Committee ('Safety in the Pouch') with community stakeholders to advise on priorities and strategies to improve the work of the Directorate in supporting positive outcomes for Aboriginal and Torres Strait Islander people, and progressing the recommendations.<sup>11</sup>

New Directorate policies highlight the commitment to "preserving the sanctity of Aboriginal and Torres Strait Islander families in recognition of traditional parenting and child rearing practices; the importance of cultural preservation and continuity; and past wrongs committed by child protection practitioners across Australia."<sup>12</sup> This policy requires family preservation to always be attempted first and, where there are ongoing issues, a Planned Application Process to continue supporting families through increased use of 'shared parental responsibility' and 'supervision' care orders so children can stay at home.<sup>13</sup> These do remain government-managed processes, however, with consultation with a member of the Cultural Services Team. There is no required involvement of independent Aboriginal community organisations.

The Government has contributed funding to pilot the program - Functional Family Therapy through Child Welfare – to be managed in partnership by Gudan Gulwan Youth Aboriginal Corporation and OzChild. Functional Family Therapy works specifically with Aboriginal and Torres Strait Islander families with children and young people aged from birth to 17 years who are at risk of entering the out-of-home care system. Functional Family Therapy aims to prevent children from entering care or restore them home safely. It is reported that the service is currently working with 18 families involving approximately 50 children and young people, with further families being accepted as capacity becomes available.<sup>14</sup> In 2018, the Directorate also employed an Aboriginal and Torres Strait Islander Training and Development Officer to identify gaps in processes and identify ways to address them to best prevent children entering care.

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<sup>6</sup> Legislation refers to the *Children and Young People Act 2008* (ACT) unless otherwise stated.

<sup>7</sup> ACT Government. (2019). *ACT Aboriginal and Torres Strait Islander Agreement 2019-2028: Delivering Equitable Outcomes for Aboriginal and Torres Strait Islander Peoples*. Available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0015/1323132/ACT-Aboriginal-and-Torres-Strait-Islander-Agreement-2019-2028.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0015/1323132/ACT-Aboriginal-and-Torres-Strait-Islander-Agreement-2019-2028.pdf).

<sup>8</sup> See [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0015/1323132/ACT-Aboriginal-and-Torres-Strait-Islander-Agreement-2019-2028.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0015/1323132/ACT-Aboriginal-and-Torres-Strait-Islander-Agreement-2019-2028.pdf).

<sup>9</sup> See [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0011/1325675/Core-Focus-Area-Children-and-Young-People.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0011/1325675/Core-Focus-Area-Children-and-Young-People.pdf).

<sup>10</sup> See <https://www.strongfamilies.act.gov.au/our-booris,-our-way>.

<sup>11</sup> The Aboriginal and Torres Strait Islander Child Protection Advisory Committee, Terms of Reference 2019.

<sup>12</sup> Child and Youth Protection Services Procedure. Family Preservation. ACT Government. June 2019. P.3.

<sup>13</sup> Child and Youth Protection Services Procedure. Family Preservation. ACT Government. June 2019; Child and Youth Protection Services Procedure. Planned Applications. ACT Government. June 2019.

<sup>14</sup> Family Matters. (2019). *The Family Matters Report 2019*. Melbourne: SNAICC – National Voice for our Children.

The Directorate has also demonstrated serious engagement specifically focused on improving compliance with all elements of the ATSCIPP: employing in 2019 an Aboriginal and Torres Strait Islander Senior Policy Officer to implement the ATSCIPP into all policies and procedures; engaging SNAICC to conduct training for child protection staff and team leaders on embedding the ATSCIPP into practice; and employing a designated Aboriginal and Torres Strait Islander Practice Leader position to identify best practice and opportunities for improvement in policy and practice across the Directorate, including the ATSCIPP. These were recommendations implemented from the *Our Booris, Our Way* review. The Directorate has also approved a Practice Guide for staff and partners on culturally responsive practice with Aboriginal and Torres Strait Islander families, developed by Curijo Pty Ltd.<sup>15</sup> Due for release in September 2019, this provides clear guidance on what active efforts are required to implement the five elements of the ATSCIPP.

Since the 2018 Baseline Analysis, the process for early identification of children as Aboriginal and/or Torres Strait Islander has been written into the Directorate's intake procedures, and is reflected in the intake form and client database user guide. The Directorate's Risk Assessment Framework and procedures related to intake, appraisal, family preservation, planned applications and care orders are also now available to the public on request.

Little has changed at this stage in outcomes for children, with Aboriginal and Torres Strait Islander children 16.3 times more likely to be in out-of-home care than other children in 2017-18.<sup>16</sup> This is a significant increase since 2016-17 when the rate of over-representation was 13.9.<sup>17</sup> However, a report tabled by the Minister in April 2019, which outlines progress against objectives outlined in *A Step Up for Our Kids*, indicates some progress, with Aboriginal and Torres Strait Islander children and young people representing 17% of those entering care in the first half of 2018-19, compared with 35% in the equivalent period in 2017-18.<sup>18</sup>

Further, the ACT's spending on family support and intensive family support services comprised only 13.1% of total funding spent on child protection in 2017-18.<sup>19</sup> While this is an increase from 12.4% in 2016-17,<sup>20</sup> there is still room to improve, with the national average 17.1% in 2017-18.<sup>21</sup> Of the 297 children commencing an intensive family support service in the ACT in 2017-18, just 26.9% were Aboriginal and Torres Strait Islander.<sup>22</sup> This is a reduction from 30.79% in 2015-16 and highlights room for improvement, with Aboriginal and Torres Strait Islander children making up 31.5% of the OOHC population in the ACT, despite making up less than 3% of the total child population.<sup>23</sup>

The ACT is making progress but has a significant way to go to fully embed the prevention element in practice.

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<sup>15</sup> Child and Youth Protection Services. (2019). Working with Aboriginal and Torres Strait Islander Families: Providing culturally responsive practice. ACT. ACT Government.

<sup>16</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children. See also [https://www.strongfamilies.act.gov.au/\\_\\_data/assets/pdf\\_file/0019/1402615/Attachment-B-Third-Quarterly-Progress-Report-OBOW-May-2019.pdf](https://www.strongfamilies.act.gov.au/__data/assets/pdf_file/0019/1402615/Attachment-B-Third-Quarterly-Progress-Report-OBOW-May-2019.pdf).

<sup>17</sup> Family Matters. (2018). The Family Matters Report 2018. Melbourne: SNAICC – National Voice for our Children.

<sup>18</sup> See A Step Up for our Kids Snapshot Report, 2019. Available at [https://www.parliament.act.gov.au/\\_\\_data/assets/pdf\\_file/0005/1352219/A-Step-Up-For-Our-Kids-Snapshot-Report.pdf](https://www.parliament.act.gov.au/__data/assets/pdf_file/0005/1352219/A-Step-Up-For-Our-Kids-Snapshot-Report.pdf).

<sup>19</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2019, Table 16A.7.

<sup>20</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2018, Table 16A.6.

<sup>21</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2019, Table 16A.7.

<sup>22</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2019, Tables 16A.31 and 16A.32.

<sup>23</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2018, Table 16A.2.



#### 4. Partnership

There have been no changes to legislation in the reporting period, with the right to self-determination remaining unrecognised. However, the Directorate has stated it is in the process of exploring avenues for legislative reform in partnership with community representatives through the new Aboriginal and Torres Strait Islander Co-Design Forum, which is currently being established. Identified members from the ATSIEB, the United Ngunnawal Elders Council and key service providers will be invited to form the core group, along with community members.

While the ACT is the only jurisdiction to have an Elected Body established through legislation, responsible for supporting the ACT Government to develop policy and provide services relevant to the needs of people in the community, Aboriginal sector leaders report that a disconnect between the body and communities on the ground needs to be addressed. In a promising move, a Steering Committee comprised of internal and external stakeholders (including key ACCOs) has been established to assist the Directorate in prioritising directions for implementation of the ATSICPP. This may be in response to the report from the Our Booris, Our Way Steering Committee which concluded that there remains a lack of independent Aboriginal and Torres Strait Islander voice to advise the Directorate on issues relevant to Aboriginal and Torres Strait Islander children, despite this being a key aspect of the strategy.<sup>24</sup>

There remains no independent role for cultural advice regarding entry to care, placement decisions and cultural plans for Aboriginal and Torres Strait Islander children. Similarly, there remain no clear processes to indicate how Aboriginal and Torres Strait Islander community and organisation participation in decision-making is enabled. There are increasing directions to staff, however, to seek broader advice, with the new Practice Guide, *“Working with Aboriginal and Torres Strait Islander Families: Providing culturally responsive practice”* articulating the active efforts required of staff at intake for collaboration:

- “Seek information from relevant representatives from our CYPS Cultural Services Team and Aboriginal and Torres Strait Islander communities (including ACCOs) to support an accurate assessment of a child’s safety in their family,” and
- “Where a case conference or Family Group Conference is used, ensure the family has an opportunity to identify any community members, ACCO representatives or members of our CYPS Cultural Services Team they would like to attend.”<sup>25</sup>

The Directorate reports that it is committed to increasing the number of ACCOs providing human services across the ACT. The Directorate has commenced research on approaches taken in other jurisdictions to understand best practice and a feasibility study focused on understanding current demand and trends across the child protection system. The timeline for this process is unknown. The pilot Functional Family Therapy through Child Welfare program (discussed above under ‘Prevention’) is promising, reflecting a partnership approach with Aboriginal and Torres Strait Islander organisations.

In addition, the Directorate recently released its Strategic Plan 2018-2028 which includes a Cultural Integrity Statement and outlines six principles to guide efforts to ensure cultural integrity: (1) Commitment to cultural proficiency (2) Authentic engagement and self-determination (3) Building on designated positions (4) Celebrating cultural identity (5) Delivering culturally-specific and accessible services and (6) Partnering with Aboriginal service providers. The Directorate reports that this is being used as a framework for a range of programs and initiatives, including a review of internal policies.

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<sup>24</sup> See *Our Booris, Our Way* interim report. Available at [https://www.strongfamilies.act.gov.au/\\_\\_data/assets/pdf\\_file/0003/1240428/Borris-Intrim-Report.pdf](https://www.strongfamilies.act.gov.au/__data/assets/pdf_file/0003/1240428/Borris-Intrim-Report.pdf).

<sup>25</sup> Child and Youth Protection Services. (2019). *Working with Aboriginal and Torres Strait Islander Families: Providing culturally responsive practice*. ACT. ACT Government, p.12.

Aboriginal sector leaders report that while there have been some positive steps by the Directorate to build partnerships, it will take significant change to redress the effects of past exclusion. In addition, just 6% of total expenditure on family support services went to one ACCO to support child, youth and family service programs in 2017-18.<sup>26</sup> This percentage was the same in the 2016-17 reporting period.<sup>27</sup>

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<sup>26</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

<sup>27</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

## 5. Placement

There have been no changes to legislation or policy concerning placement in the reporting period.

The Directorate reports that it has employed a full-time Aboriginal staff member with skills and expertise in finding family. The Directorate also indicates that practice around family finding will be strengthened through cultural support for frontline staff, enhanced training and practice guidance. However, there has been no reported funding to Aboriginal organisations to conduct family finding and kinship mapping. The Directorate does report an important move to update procedures to reflect that any placement of an Aboriginal or Torres Strait Islander child with a non-Indigenous carer will be considered temporary, until all efforts to find family have taken place.

The new Practice Guide on culturally responsive practice sets out processes to guide good practice placement decision-making by the Directorate to ensure that all possible options are exhausted at one level before considering a lower-order placement. The Directorate also reports that it has a Placement Panel, which includes an Aboriginal panel member and provides a transparent process to ensure that all children are placed in accordance with the Placement hierarchy. The Our Booris, Our Way Steering Committee has also been reviewing individual children's case files to determine whether the ATSICPP is being properly embedded.<sup>28</sup> Some of the preliminary findings of the review, particularly in relation to cultural plans, can be found under 'Connection' below. There remains, however, no independent accountability mechanism, like an Aboriginal Children's Commissioner, to support implementation of and accountability to these processes. This is despite the *Our Booris Our Way* review recommending that the government "appoint an Aboriginal and Torres Strait Islander Children's Commissioner with advocacy role and additional capacity to intervene and engage in child protection processes."<sup>29</sup>

62.3% of Aboriginal and Torres Strait Islander children were placed with kin or other Aboriginal and Torres Strait Islander carers in 2017-2018 (up from 60.4% in 2016-2017) and 41.2% were placed with Aboriginal and Torres Strait Islander carers<sup>30</sup> (down from 59.4% in 2016-2017), suggesting further efforts are required to ensure that Aboriginal and Torres Strait Islander children in OOHC have culturally connected placements.

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<sup>28</sup> See [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0005/1404590/Our-Booris-Our-Way-Communique-17.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0005/1404590/Our-Booris-Our-Way-Communique-17.pdf).

<sup>29</sup> See [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0019/1402615/Attachment-B-Third-Quarterly-Progress-Report-OBOW-May-2019.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0019/1402615/Attachment-B-Third-Quarterly-Progress-Report-OBOW-May-2019.pdf).

<sup>30</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, Report on Government Services – Chapter 16 – Child Protection, 2018, Table 16A.21.

## 6. Participation

There have been no legislative changes in relation to Aboriginal or Torres Strait Islander child and family participation in child protection decision-making during this period. The Directorate endorsed a Family Preservation Procedure in March 2019 to operationalise family-led decision-making where it is unclear or unknown whether a child is in need of protection. It provides for development and monitoring of a case plan by the Directorate voluntarily with families. For Aboriginal or Torres Strait Islander families, the response “will be informed by the Cultural Services Team wherever possible (and agreeable to the family) and/or an identified Aboriginal Controlled Organisation (Winnunga Aboriginal Health Service and Gugan Gulwan).”<sup>31</sup> There is no further mention of this throughout the procedure; however, with the only other reference to Aboriginal and Torres Strait Islander families that staff should consider family group conferencing for them (p.8).

The Family Group Conferencing (FGC) pilot program has progressed, with the ACT Government committing \$1.44m in the 2018-19 budget for its ongoing delivery for Aboriginal and Torres Strait Islander children at risk of involvement with statutory services. Two identified Aboriginal and Torres Strait Islander Family Group Conferencing facilitators were engaged in 2018 to establish the program on a permanent basis. Family Group Conferencing is being used as a mechanism for early intervention, to divert families away from the child protection system and to determine their own solutions for keeping children at home safely. From the beginning of the pilot in November 2017 to June 2019, 29 families have been involved in a FGC, concerning 69 children.<sup>32</sup> 46 Aboriginal and Torres Strait Islander children have not subsequently entered care following a FGC. For the remaining 23 children, decisions about the best care arrangements, other than with birth families, have been made by the extended family.<sup>33</sup> While this is a significant improvement, not being ACCO-designed, developed or delivered, it does not meet the ATSICPP requirements.

There are a number of procedures and tools to support participation in decision-making of children in out-of-home care. The Directorate’s Annual Review Procedures state that ‘Staff must visit, or request an interstate child protection worker to visit, a child at least once (1) as part of the annual review process.’ On these occasions, the Directorate offers the child or young person the opportunity to complete an age-appropriate viewpoint survey to record their views, wishes and attitudes. The Directorate has several practice guidelines in relation to interviewing children and young people or involving them in decision-making. These include, for example: Practice Guideline: Engaging with Aboriginal or Torres Strait Islander children and young people; Practice Guideline: Involving children and young people in decision making; Practice Guideline: Engaging with children and young people; and Practice Guideline: Visiting children in out of home care.

The Directorate has made a series of efforts to support more culturally competent engagement with families. In particular, it has developed a process that facilitates priority allocation of Aboriginal and Torres Strait Islander families, where possible, to operational staff who have completed the Directorate’s Cultural Development Program to ensure only staff trained to engage families will work with them. The implementation of the new client management system, known as CYRIS, will ensure the Cultural Services Team is automatically notified when an Aboriginal and Torres Strait Islander family comes to the attention of the Directorate. The Cultural Services Team has developed three information brochures about its role for families, community organisations and young people.

Aboriginal sector leaders report that families still find it difficult to engage in decision-making and have found avenues to challenge child protection statutory decisions, such as judicial review, inaccessible.

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<sup>31</sup> Child and Youth Protection Services Procedure. Family Preservation. ACT Government. June 2019. P.1.

<sup>32</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

<sup>33</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

## 7. Connection

There have been no legislative or policy developments in relation to connection during this period. In 2018, the Directorate partnered with Curijo Pty Ltd, an Aboriginal-operated organisation, to develop guidance for child protection staff to perform their role in a manner that supports the cultural needs of Aboriginal and Torres Strait Islander children, their families and communities. The Practice Guide, *“Working with Aboriginal and Torres Strait Islander Families: Providing culturally responsive practice”* provides information about effectively embedding ‘active efforts’ for best practice casework.

In 2019, the Directorate also released the new *Carer Handbook* to provide carers with information to help them be informed about their role and responsibilities, understand different aspects of care such as decision-making, relationships and finance, and where they can go for help and support. It is designed to be a one-stop reference guide to answer carers’ questions as they come up. The handbook contains information on what carers can do to support Aboriginal and Torres Strait Islander children in their care to remain connected to their culture.

As at December 2018, 93% of Aboriginal and Torres Strait Islander children in out-of-home care had a cultural plan.<sup>34</sup> However, of the 108 cultural plans that were reviewed by the Our Booris, Our Way Steering Committee, only nine involved consultation with the child’s community and only one involved consultation with an Aboriginal agency.<sup>35</sup> Further, it is reported that 16 children moved from a non-relative/kinship care placement to an Aboriginal and Torres Strait Islander kinship carer in 2017-18,<sup>36</sup> and 17 children were reunified with their birth parents.<sup>37</sup>

Finally, there were 207 Aboriginal and Torres Strait Islander children subject to a finalised guardianship order at 30 June 2018.<sup>38</sup> Of these, 124 (59.9%) children were placed with a relative/kinship carer and 88 (42.5%) were placed with a relative/kinship carer or other carer who identified as Aboriginal and/or Torres Strait Islander.<sup>39</sup> Further, there were 28 Aboriginal and Torres Strait Islander children on permanent care orders at 30 June 2018.<sup>40</sup> Of these, 13 (46.4%) were placed with a relative/kinship carer and only 3 (10.7%) were living with relative/kinship or other carers who identified as Aboriginal and/or Torres Strait Islander.<sup>41</sup> Permanency arrangements give rise to serious risks of permanent separation of children from family and culture, particularly where there are significant gaps in implementation of the ATSCIPP, and make strong accountability mechanisms for ongoing implementation of high-quality cultural care plans all the more important.

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<sup>34</sup> See [https://www.parliament.act.gov.au/\\_data/assets/pdf\\_file/0005/1352219/A-Step-Up-For-Our-Kids-Snapshot-Report.pdf](https://www.parliament.act.gov.au/_data/assets/pdf_file/0005/1352219/A-Step-Up-For-Our-Kids-Snapshot-Report.pdf).

<sup>35</sup> See [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0007/1361626/Our-Booris-Our-Way-Signed-Third-Set-of-Recommendations-May-2019.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0007/1361626/Our-Booris-Our-Way-Signed-Third-Set-of-Recommendations-May-2019.pdf)

<sup>36</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

<sup>37</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

<sup>38</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

<sup>39</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

<sup>40</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.

<sup>41</sup> Family Matters. (2019). The Family Matters Report 2019. Melbourne: SNAICC – National Voice for our Children.