

REVIEWING IMPLEMENTATION OF  
THE ABORIGINAL AND  
TORRES STRAIT ISLANDER  
CHILD PLACEMENT  
PRINCIPLE  
AUSTRALIAN CAPITAL  
TERRITORY  
2020



**SNAICC**  
National Voice for our Children

# **Review of the ATSI CPP implementation efforts over the reporting period 1 May 2019 – 30 April 2020**

By SNAICC March 2021

## **About SNAICC**

SNAICC – National Voice for our Children (SNAICC) is the national non-government peak body for Aboriginal and Torres Strait Islander children.

SNAICC works for the fulfilment of the rights of our children, in particular to ensure their safety, development and well-being.

The SNAICC vision is an Australian society in which the rights of Aboriginal and Torres Strait Islander children, young people and families are protected; our communities are empowered to determine their own futures; and our cultural identity is valued.

SNAICC was formally established in 1981 and today represents a core membership of Aboriginal and Torres Strait Islander community-controlled organisations providing child and family welfare and early childhood education and care services.

## Table of contents

<b>Introduction .....</b>	<b>4</b>
<b>Snapshot of progress and areas for improvement .....</b>	<b>5</b>
<b>Overview .....</b>	<b>7</b>
Key findings.....	7
Key overarching initiatives .....	8
Community voices .....	8
What the data says.....	9
<b>Prevention.....</b>	<b>11</b>
A Step Up for Our Kids .....	11
Functional Family Therapy – Child Welfare .....	12
Our Booris, Our Way .....	12
Child and Family Centres .....	13
Biased decision-making and limited avenues to challenge decisions.....	13
Broader reforms .....	14
Data .....	14
Conclusion .....	17
<b>Partnership .....</b>	<b>17</b>
Aboriginal and Torres Strait Islander oversight .....	17
Aboriginal and Torres Strait Islander service provision .....	18
Aboriginal and Torres Strait Islander input to decision-making on specific cases.....	19
Data .....	19
Conclusion .....	19
<b>Placement .....</b>	<b>20</b>
Finding kinship carers: Finding Kin Project and the Family Finding Model.....	20
Supporting kinship carers .....	20
Placing a child in accordance with the ATSICPP .....	21
Data .....	21
Conclusion .....	22
<b>Participation .....</b>	<b>23</b>
Family-led decision-making .....	23
Conclusion .....	24
<b>Connection .....</b>	<b>24</b>
Cultural plans .....	24
Reunification.....	24
Permanency and adoption.....	25

Data .....	25
Conclusion .....	26

## Introduction

This report reviews the progress of the ACT Government, through the Directorate and its Child and Youth Protection Services (CYPS), in implementing the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP). This review is informed by the best practice approach set out in SNAICC [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](#). Based on these resources, SNAICC undertook comprehensive baseline analyses of the progress of states and territories in implementing the full intent of the principle in 2018. Following from the baseline analysis, SNAICC undertakes annual state and territory compliance reviews to map the progress and gaps in the implementation of the ATSICPP across Australia.<sup>1</sup> The current review considers ATSICPP implementation efforts over the past year (from 1 May 2019 to 30 April 2020).

In undertaking the review, SNAICC uses both quantitative and qualitative analysis to measure and review state and territory progress against the five elements of the ATSICPP – Prevention, Partnership, Placement, Participation, and Connection – across five interrelated systems elements – Legislation, Policy, Programs, Processes, and Practice. The reviews primarily focus on the actions of child welfare agencies across Australia and therefore do not fully consider the progress of other departments and agencies. However, the child welfare agencies consulted are encouraged to provide information about whole-of-government efforts and the initiatives of other agencies that contribute to implementation of the ATSICPP. The reviews are developed with input from Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) and state and territory governments.

The Aboriginal and Torres Strait Islander Working Group for the National Framework for Protecting Australia's Children guides the development of the reviews. 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 review aligns with the priority reform areas of the new *National Agreement on Closing the Gap*. It aims to hold governments accountable to reforming their systems in a way that will achieve better outcomes for Aboriginal and Torres Strait Islander children and their families, as well as highlight the successes of their reforms.

---

<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/wp-content/uploads/2019/02/ATSI CCP-Baseline-ACT-Final-April-2018.pdf>

<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)

# Snapshot of progress and areas for improvement

## Progress summary

## Areas for improvement

### Implementation across all elements

Functional Family Therapy program run by Gudan Gulwan Youth Aboriginal Corporation (Gudan Gulwan) and OzChild has supported families to prevent children from entering out-of-home care.

*Our Booris, Our Way Review* and agreement by the government to implement many of the recommendations.

Systemic changes within the Community Services Directorate required to ensure meaningful, respectful engagement by staff with families and community leaders.

Significant relinquishing of power and funding to Aboriginal community-controlled organisations (ACCOS).

Increased funding to prevention and reunification services run by ACCOs.

Stronger commitment and action to implement all recommendations made by the *Our Booris, Our Way Steering Committee*.

### Prevention element

Functional Family Therapy program run by Gudan Gulwan Youth Aboriginal Corporation (Gudan Gulwan) and OzChild engaged 57 families in the reporting period. Twenty-four families have successfully completed the program with no subsequent entries of children and young people into the out-of-home care system in the reporting period.

Aboriginal and Torres Strait Islander children were 12.7 times more likely to be in out-of-home care than non-Indigenous children in 2018-19. This is well above the national average of 9.7 times.

Proportional funding to family support services must increase significantly.

### Partnership element

*Our Booris, Our Way Review* and acknowledgment by the government to implement many of the recommendations. Setting up of an oversight body to implement recommendations.

Aboriginal and Torres Strait Islander Co-Design Network which has provided input to government policies and initiatives.

Limited meaningful engagement with ACCOs.

Limited funding to ACCOs: just one ACCO is provided funding in the child protection space and the percentage of funding provided to this ACCO has not increase over the past three reporting periods.

No dedicated children's commissioner or peak body.

### Placement element

Finding Kin Project and the Family Finding Model introduced.

In 2018-19, 64.3% of Aboriginal and Torres Strait Islander children in care were placed with kin or other Aboriginal and Torres Strait Islander carers, above the national average.

Just 42.2% of children were placed with Aboriginal and Torres Strait Islander carers, below the national average.

### Participation element

Continued funding to Family Group Conferencing (FGC), which has seen promising results.

Need for independent Aboriginal and Torres Strait Islander facilitators to facilitate FGC to ensure the model aligns with the intent of Aboriginal and Torres Strait Islander family-led processes.

### Connection element

New cultural plan template developed with input from ACCOs.

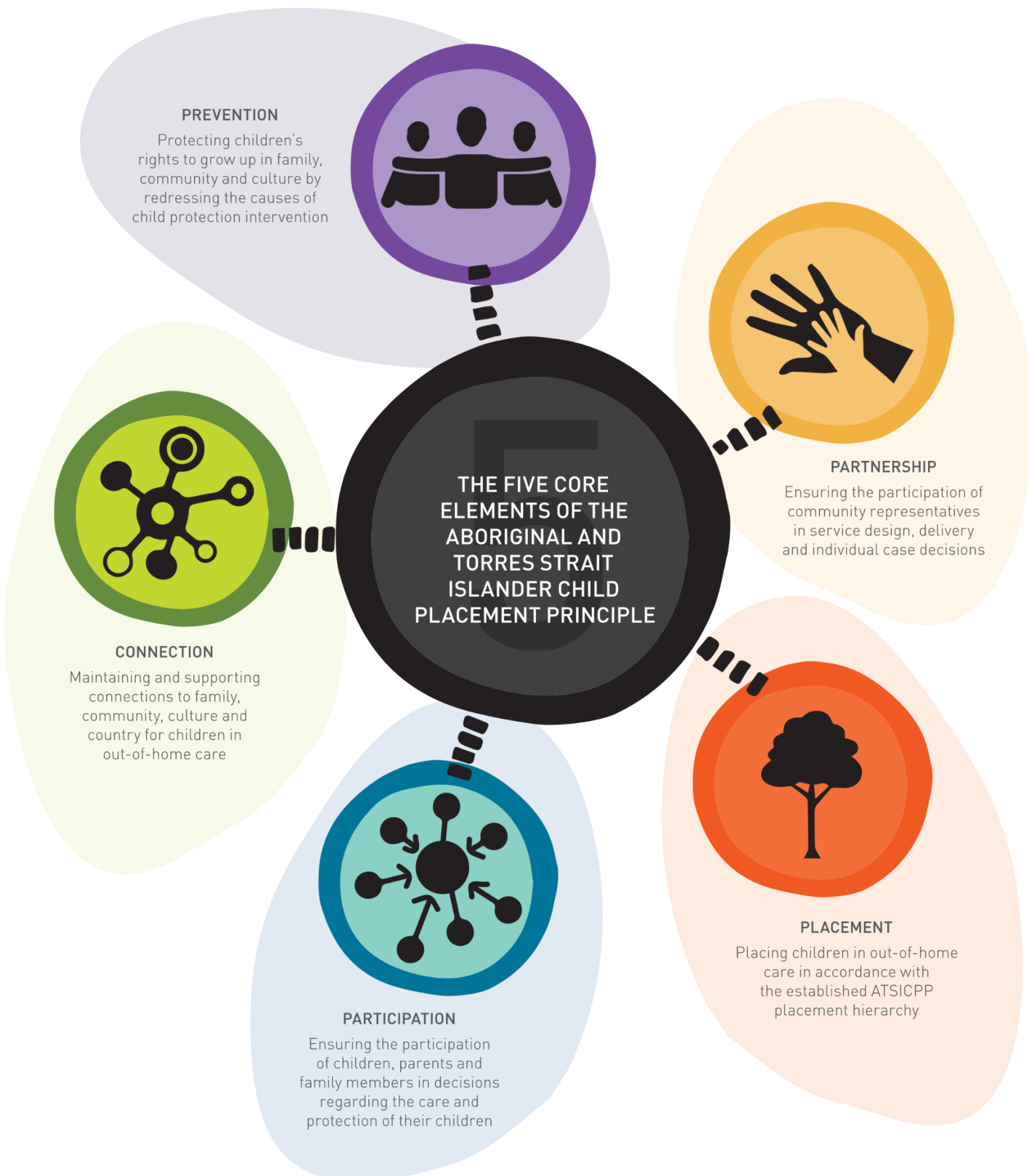
Policy of non-adoption introduced with input from ACCOs and independent Aboriginal and Torres Strait Islander community members. No Aboriginal and Torres Strait Islander children were adopted in the reporting period.

Permanency planning being pursued. The rate of Aboriginal and Torres Strait Islander children on long-term permanent care orders was particularly high in the Australian Capital Territory (67.5 per 1,000) in 2018-19.

Reunification is not being actively pursued. While there were 199 Aboriginal children in out-of-home care at 30 June 2019, only 24 were reunified in 2018-19.

Reconnection: moving children from less connected placements to more connected placements has been limited.

## The Five Core Elements of the Aboriginal and Torres Strait Islander Child Placement Principle



## Overview

### Key findings

This Implementation Review reveals that the Australian Capital Territory still has a long way to go to fully implement the intent of the ATSICPP. Although there have been some efforts made in the reporting period and over recent years to embed the ATSICPP across policy, programs, processes and practice, there remain gaps in implementation that must be urgently addressed to improve outcomes.

There have been no legislative reforms for a number of years despite a commitment to do this. Enabling legislation is crucial for influencing policy, processes, programs and practice that affect Aboriginal and Torres Strait Islander children and their families on the ground. The Community Services Directorate (Directorate) reported that it is currently working with the Our Booris, Our Way Implementation Committee (discussed below) to develop an agreed approach to legislative reform.

The Directorate and its Child and Youth Protection Services (CYPS) have taken the following steps in the reporting period to implement the ATSICPP:

- **Prevention:** there has been continued funding to the Functional Family Therapy program run by Gugan Gulwan Youth Aboriginal Corporation (Gugan Gulwan) and OzChild. This program has seen promising results. However, the data reveal that more funding must be dedicated to family supports and intensive family supports to ultimately reduce the number of children in care. Further, a culture of biased decision-making within the Directorate must be addressed.
- **Partnership:** the Aboriginal and Torres Strait Islander Co-Design Network has provided input to policies, procedures and service design, including the policy on non-adoption. The Our Booris, Our Way Steering Committee tasked with reviewing the child protection system as it relates to Aboriginal and Torres Strait Islander children has played an important role over the past few years in influencing the reform agenda. The Steering Committee released its final report with recommendations in December 2019. It is imperative that the government in partnership with community implements these recommendations. The government has agreed to many but not all of the recommendations and has established a body made up of independent Aboriginal and Torres Strait Islander community members to oversee the implementation of the recommendations. Community leaders have expressed disappointment that implementation is not occurring at the pace required to see improved outcomes. In addition, concerted effort must be taken to develop the ACCO sector in the jurisdiction. There has been no action on recommendations made by the community to establish a dedicated children's commissioner and to look into the possibility of developing a peak body.
- **Placement:** action has been taken to improve ways kin carers are found, assessed and supported. However, the placement of children with Aboriginal and Torres Strait Islander carers is below the national average, revealing that more must be done to find and support Aboriginal and Torres Strait Islander kin carers, especially when children first enter out-of-home care.
- **Participation:** the government has made promising efforts to support Family Group Conferencing, which has led to the increased participation of Aboriginal and Torres



Strait Islander children and their families in decision-making. More efforts must be taken to ensure this process is available to all families at key decision-making points across the child protection continuum. Community leaders have also expressed that this process should be fully independent and Aboriginal and Torres Strait Islander-led to align with the intent of the ATSICPP.

- **Connection:** a new cultural plan template has been developed in partnership with community and a policy of no adoption for Aboriginal and Torres Strait Islander children has been implemented. These are promising. However, the rate of children being transferred from lower order placements to higher order placements in the placement hierarchy and rates of reunification are low. Further, there has been a move towards permanency planning while efforts to reunify children have been very limited. This seriously risks undermining children's opportunity to stay connected to their families, communities and culture.

## Key overarching initiatives

In addition to the specific efforts mentioned above, the ACT Government has taken these broader initiatives to better implement the ATSICPP across the five elements:

- **Active efforts** – CYPS in partnership with Curijo Pty Ltd developed a guide for staff titled *Working with Aboriginal and Torres Strait Islander children and families*.<sup>3</sup> This publication outlines the active efforts expected of CYPS staff, necessary to embed the ATSICPP in practice.
- **Increasing cultural awareness amongst government staff** – in the 2019-20 ACT Government Budget, \$1.74m funding over four years was committed to strengthen services for Aboriginal and Torres Strait Islander people. As part of this agenda, three Aboriginal and Torres Strait Islander staff were employed to help improve the government staff's cultural awareness, embed the ATSICPP and support enhanced cultural practice. However, as outlined below in the 'Community voices' section, significant, systemic changes are required within the Directorate.
- The Australian Capital Territory and Queensland are co-leading the national **Priority One Working Group** under the Fourth Action Plan for the National Framework for Protecting Australia's Children 2009-2020, which focuses on improving outcomes for Aboriginal and Torres Strait Islander children. The Directorate reported that it is committed to actively engaging with this group to ensure local implementation and legislative reform is consistent with national best practice.

## Community voices

Sector leaders noted that while the government has introduced policies, practices, procedures, and processes that seem to align with the ATSICPP, this has not translated into positive outcomes for children and their families. This opinion is echoed by KPMG in their

---

<sup>3</sup> See Community Services, ACT Government. (2019). *Working with Aboriginal and Torres Strait Islander Families: Providing Culturally Responsive Practice*, available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0009/682623/CSD\\_OHCS\\_Strategy\\_web\\_FINAL.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0009/682623/CSD_OHCS_Strategy_web_FINAL.pdf)

independent evaluation of the *A Step Up for Our Kids* strategy discussed in the Prevention section.

Community leaders have said that there have been no marked improvements for children and families because the government has failed to address entrenched issues including systemic racism within the Directorate and provide self-determination to families and communities.

Sector leaders stated that the Directorate continues to focus on complying with their policies and practice guidelines in a tokenistic way rather than engaging respectfully with families and communities. They mentioned that current cultural awareness training provided to Directorate staff is inadequate and that independent training must be provided.

Aboriginal and Torres Strait Islander community leaders and families have said they have lost hope, feel disempowered, and that practitioners are continuing to assess families through a biased, Western lens.

There have been limited steps taken to embed self-determination within the child protection system according to sector leaders. The Aboriginal and Torres Strait Islander Elected Body plays an important advocacy role. However, this body must be a statutory one with full independence to ensure its work fully benefits communities. There remains no dedicated Aboriginal and Torres Strait Islander Children's Commissioner to provide systemic oversight of the child protection system and funding provided to ACCOs is limited.

Sector leaders mentioned that, on a positive note, the government has continued its commitment to fund Functional Family Therapy, which has seen promising results for families.

Sector leaders have stated that overall there needs to be a cultural shift within the Directorate to improve results. They also stated that the government must relinquish power and funding to ACCOs as they are best placed to ensure children remain with their families, connected to family, culture, community and Country.

Sector leaders' views on specific initiatives are outlined throughout this review.

## What the data says

The data reveals that while the ACT Government has been taking measures to redress the rate of Aboriginal and Torres Strait Islander children in out-of-home care, concerted efforts in partnership with ACCOs are needed to fully implement the ATSICPP and to change the realities for families and children:

- Aboriginal and Torres Strait Islander children were 12.7 times more likely to be in out-of-home care than non-Indigenous children in 2018-19. This is well above the national average of 9.7 times.<sup>4</sup>
- Aboriginal and Torres Strait Islander children comprised 29% of children in out-of-home care in 2018-19,<sup>5</sup> despite making up about 3% of the child population in the Australian Capital Territory.

---

<sup>4</sup> Family Matters. (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>5</sup> Ibid.

- The Australian Capital Territory's spending on family support and intensive family support services comprised only 12% of total funding spent on child protection in 2018-19,<sup>6</sup> below the national average of 15.9 %.<sup>7</sup>
- Funding spent on intensive family supports (8%) was double that spent on family support services (4%) in 2018-19.<sup>8</sup>
- Just 6% of the government's expenditure on child protection was granted to one ACCO.<sup>9</sup> There has been no improvement since the 2017-18 and 2016-17 reporting periods.<sup>10</sup>
- In 2018-19, 64.3% of Aboriginal and Torres Strait Islander children in care were placed with kin or other Aboriginal and Torres Strait Islander carers, above the national average.<sup>11</sup>
- Just 42.2% of children were placed with Aboriginal and Torres Strait Islander carers, which is below the national average.<sup>12</sup>
- No Aboriginal and Torres Strait Islander children were adopted during the reporting period.<sup>13</sup>
- The rate of Aboriginal and Torres Strait Islander children on long-term permanent care orders was particularly high in the Australian Capital Territory (67.5 per 1000) in 2018-19.<sup>14</sup>
- Of the children in out-of-home care in 2018-19, 9 children moved from a non-relative/kinship placement to a relative/kinship placement. Given there were 71 Aboriginal and Torres Strait Islander children who were in non-Indigenous, non-kin placements in 2018-19, this is an extremely disappointing result.<sup>15</sup>
- While there were 199 Aboriginal children in out-of-home care at 30 June 2019, only 24 were reunified in 2018-19.<sup>16</sup>
- Just 8 children were reunified/restored to their birth parents within 12 months of entering out-of-home care in 2018-19.<sup>17</sup>

---

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

<sup>10</sup> SNAICC. (2019). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Australian Capital Territory 2019*, available at [https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019\\_ACT.pdf](https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019_ACT.pdf)

<sup>11</sup> Family Matters. (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, *Report on Government Services – Chapter 16 – Child Protection*, 2020, Table 16A.21.

<sup>16</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>17</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

## Prevention

The prevention element of the ATSICPP aims to ensure Aboriginal and Torres Strait Islander children and their families grow up healthy, safe, and within their own family and community. Features of prevention are broad. They can include addressing social determinants of health; organisational reforms to address institutional racism; or more targeted earlier interventions aimed at supporting families and preventing children from entering the child protection system. Thus, most government departments have a role to play in prevention. This review however is primarily limited to the actions and progress of the Community Services Directorate to implement the prevention element,<sup>18</sup> while noting that true prevention can only be achieved with a whole of government approach.

## A Step Up for Our Kids

*A Step Up for Our Kids* 2015-2020, the Australian Capital Territory's dedicated out-of-home care strategy that has committed to investing in services to keep Aboriginal and Torres Strait Islander children safely at home, has continued in the reporting period.<sup>19</sup> KPMG conducted an evaluation of the strategy at its mid-point and released its findings in August 2019. KPMG noted that new prevention and reunification services have been established in the Australian Capital Territory as part of the strategy and there have been positive results for some individual families within the programs.<sup>20</sup> For example, Family Group Conferencing (see Connection section) and Functional Family Therapy (see below) have been introduced specifically for Aboriginal and Torres Strait Islander children and young people and their families. These were looked at in depth in SNAICC's 2019 *Implementation Review*.

Despite these positive developments, KPMG concluded that there were no marked improvements as a result of the strategy for Aboriginal and Torres Strait Islander children, other than those reported in KPMG's *Baseline Report* published in June 2017.<sup>21</sup> Aboriginal and Torres Strait Island children remain disproportionately represented at an increasing level in the out-of-home care system even after the strategy was introduced.<sup>22</sup> For instance in 2015-16 when the strategy was first introduced, Aboriginal and Torres Strait Islander

---

<sup>18</sup> The Directorate is in the process of finalising procedures on planned applications and family preservation. These will be available on the Directorate's website shortly. As the procedures have not been finalised yet, they will be analysed in the 2021 implementation review.

<sup>19</sup> Community Services, ACT Government (2015). *A Step Up for Our Kids – Out-of-Home Care Strategy 2015-2020*, available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0009/682623/CSD\\_OHCS\\_Strategy\\_web\\_FINAL.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0009/682623/CSD_OHCS_Strategy_web_FINAL.pdf)

<sup>20</sup> KPMG. (2019). *A Step Up for Our Kids: One Step Can Make a Lifetime of Difference ACT Out Of Home Care Strategy 2015-2020. Final Report for the mid-Strategy evaluation*, p. 17, available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0009/1393803/Final\\_Mid-Strategy-Evaluation-Report.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0009/1393803/Final_Mid-Strategy-Evaluation-Report.pdf)

<sup>21</sup> KPMG. (2017). *Evaluation of A Step Up for Our Kids 2015-2020: Baseline report*, available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0006/1187412/Evaluation-of-A-Step-Up-for-Our-Kids-2015-2020-Baseline-report.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0006/1187412/Evaluation-of-A-Step-Up-for-Our-Kids-2015-2020-Baseline-report.pdf)

<sup>22</sup> KPMG. (2019). *A Step Up for Our Kids: One Step Can Make a Lifetime of Difference ACT Out Of Home Care Strategy 2015-2020. Final Report for the mid-Strategy evaluation*, p. 17, available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0009/1393803/Final\\_Mid-Strategy-Evaluation-Report.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0009/1393803/Final_Mid-Strategy-Evaluation-Report.pdf). See also, Steering Committee for the Review of Government Service Provision, Productivity Commission, *Report on Government Services – Chapter 16 – Child Protection*, 2020, Table 16A.9.

children were 8.28 times more likely to be in out-of-home care.<sup>23</sup> In 2018-19 this rate had increased to 9.32 times.<sup>24</sup>

A post-strategy evaluation is in progress and the stage one report will be available in the first quarter of 2021.<sup>25</sup> The Directorate has informed us that a guiding principle for the Post Strategy Evaluation (PSE) is to actively engage with people whose lives are affected by child protection and the out-of-home care system so that their voices, experience and knowledge inform the PSE and are reflected in the report.

## Functional Family Therapy – Child Welfare

The ACT Government continued to support the delivery of Functional Family Therapy – Child Welfare (Functional Family Therapy), a partnership between Gudan Gulwan Youth Aboriginal Corporation (Gudan Gulwan) 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 return them home safely. It is reported that between November 2018 (when the program was established) and 30 June 2020, 57 families have engaged with the program.<sup>26</sup> Of those, 43 families consented to engage in the program. During the program, 4 families disengaged from the program (two relocated out of state and two chose to withdraw).<sup>27</sup> Of the 39 families who remained in the program, 24 families have successfully completed the program with no subsequent entries of children and young people into the out-of-home care system.<sup>28</sup> The remaining families continue in the program.<sup>29</sup>

Of the 24 families that successfully completed the program, the Directorate reported that 19 were referred to external agencies for “step down” support including counselling, youth mentoring, mental health support, cultural health and disability support.<sup>30</sup>

The program also offers booster sessions to those families who have successfully completed the program.<sup>31</sup> Of the 24 families who have completed Functional Family Therapy, 10 families have reached out for booster sessions.<sup>32</sup> In the reporting period, the program received \$756,133.00 in funding.<sup>33</sup> Gudan Gulwan has worked hard to develop trusting relationships with families, which has resulted in these positive outcomes.

## Our Booris, Our Way

The Our Booris, Our Way Steering Committee (Steering Committee), tasked with reviewing the child protection system in the Australian Capital Territory as it relates to Aboriginal and

---

<sup>23</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, *Report on Government Services – Chapter 16 – Child Protection*, 2020, Table 16A.9.

<sup>24</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, *Report on Government Services – Chapter 16 – Child Protection*, 2020, Table 16A.9.

<sup>25</sup> Community Services, ACT Government (2020). *A Step Up for Our Kids – Out-of-Home Care Strategy 2015-2020*, available at <https://www.communityservices.act.gov.au/ocvfs/children/child-and-youth-protection-services/a-step-up-for-our-kids/out-of-home-care-strategy-2015-2020#mid>.

<sup>26</sup> ACT Government input to inform this review.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

Torres Strait Islander children, released its final report in December 2019. The report notes some positive practices by the CYPS in the prevention space. For example, there has been an increase in engagement with families at the early intervention stage, including the conducting of pre-natal planning with families so that early supports are provided.<sup>34</sup>

However, the report found that active efforts must be taken to ensure that families benefit from the services available. For instance, the Steering Committee noted that the Directorate should do more to facilitate access to supports, including “thinking through the impact on the family to attend support services – transport, care of other children, work commitments.”<sup>35</sup>

The findings and recommendations of the Steering Committee will be addressed throughout this review.

## Child and Family Centres

Child and Family Centres provide services for families with young children in the Gungahlin, Tuggeranong and West Belconnen communities. The centres provide a range of universal and tailored services based on the needs of children and their families, with a strong emphasis on providing outreach services in homes, schools, and the community. The Growing Healthy Families (GHF) program is a suite of programs offered to Aboriginal and Torres Strait Islander children, families and community through the Child and Family Centres. The Directorate reported that many of these programs are co-delivered with local services. Examples of GHF programs include playgroups (like Koori Playgroup / Deadly Bubs) and support groups (like Strong Women’s group), which are aimed at bringing children and families together to provide supports. Further information and data are required to assess the efficacy of these programs.

## Biased decision-making and limited avenues to challenge decisions

Sector leaders have stated that families have lost hope, feel disempowered and that government practitioners are continuing to assess families through a biased, Western lens. They have indicated that there needs to be more skilled and trained Aboriginal and Torres Strait Islander staff doing statutory work to avoid biased decision-making and to prevent children who do not need to be placed in out-of-home care from entering the system in the first place. Further, sector leaders noted that many families are unaware of their rights and not adequately supported to challenge the government’s decisions, including before courts.

---

<sup>34</sup> Our Booris, Our Way (2019). *Our Booris, Our Way Final Report 2019*, p.38 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)

<sup>35</sup> Our Booris, Our Way (2019). *Our Booris, Our Way Final Report 2019*, p.39 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)



## Broader reforms

The government has stated that it has taken the following measures to address some of the systemic drivers of engagement with the child protection system:

- **Housing:** the ACT Government allocated \$1.2 million in funding in 2019-20 to six programs from the ACT Specialist Homelessness Sector specifically dedicated to support Aboriginal and Torres Strait Islander people. Approximately \$351,000 of this was provided to ACCOs to deliver services.<sup>36</sup>
- **Family violence:** the *We Don't Shoot Our Wounded* (WDSOW) study examines the experiences of Aboriginal and Torres Strait Islander survivors of family violence and their access to justice and to services in the Australian Capital Territory with a view to improving outcomes for families. The government reported that it has established an identified project officer position for the WDSOW project, and worked with and supported the Domestic Violence Prevention Council Aboriginal and Torres Strait Islander Reference Group to lead the WDSOW project.<sup>37</sup> This year, the ACT Government has provided support to the Aboriginal and Torres Strait Islander Reference Group to assist with organising community consultations. The Directorate reported that the purpose of the consultations is to test the currency of the recommendations in the reports and to determine next steps to action these recommendations through a co-design process. It is anticipated that a report following these community consultations will be available in late 2020.

## Data

Little has changed over the past year in outcomes for children, with Aboriginal and Torres Strait Islander children comprising 29% of the children in out-of-home care in 2018-19,<sup>38</sup> despite making up about 3% of the child population in the Australian Capital Territory. On a positive note, this is a slight decrease from 31% in the previous year.<sup>39</sup> Notwithstanding this small improvement over a year-long period, Figure 1 below reveals that there has been an upward trend in the percentage of Aboriginal and Torres Strait Islander children in out-of-home care in the past decade.

Aboriginal and Torres Strait Islander children were 12.7 times more likely to be in out-of-home care than non-Indigenous children in 2018-19. This is well above the national average of 9.7 times.<sup>40</sup>

---

<sup>36</sup> ACT Government input to inform this review.

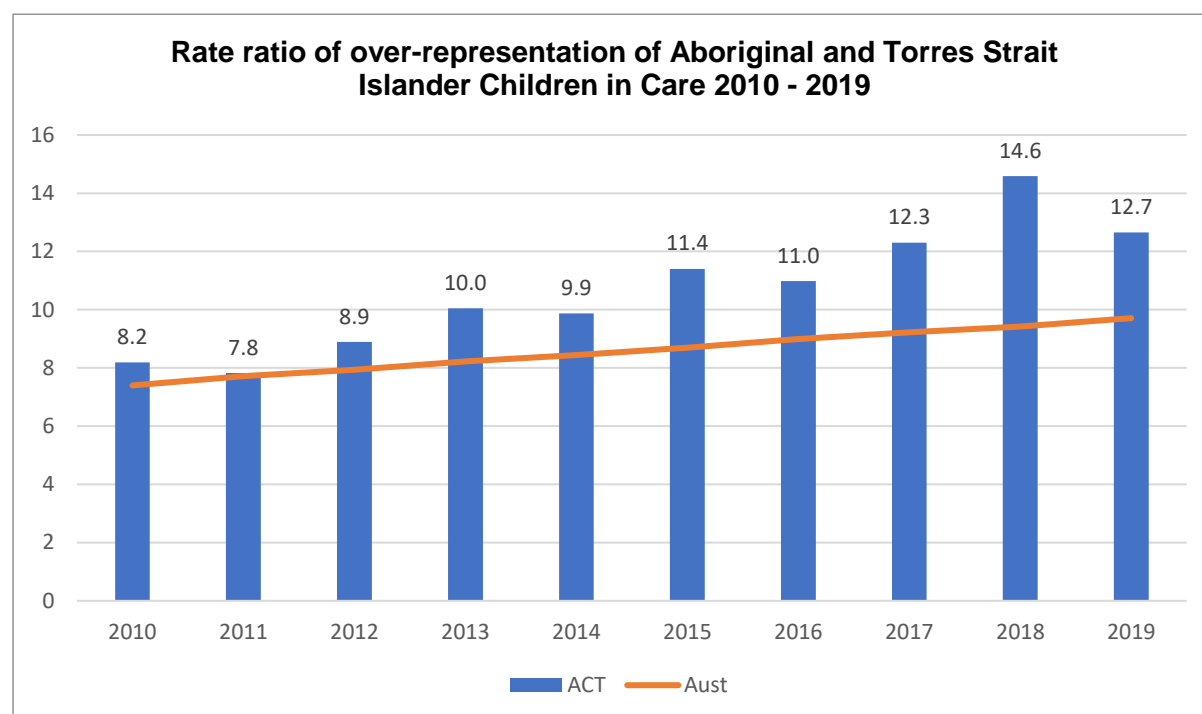
<sup>37</sup> Ibid.

<sup>38</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

**Figure 1: Rate ratio of overrepresentation of Aboriginal and Torres Strait Islander children in care 2010-2019**



Further, the Australian Capital Territory's spending on family support and intensive family support services comprised only 12% of total funding spent on child protection in 2018-19,<sup>41</sup> a decrease from the previous year when the rate was 13.1%<sup>42</sup> and below the national average at 15.9 %.<sup>43</sup> Funding spent on intensive family supports (8%) is double that spent on family support services (4%).<sup>44</sup> Overall this suggests that there continues to be more money spent at the tertiary end of the system.

<sup>41</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

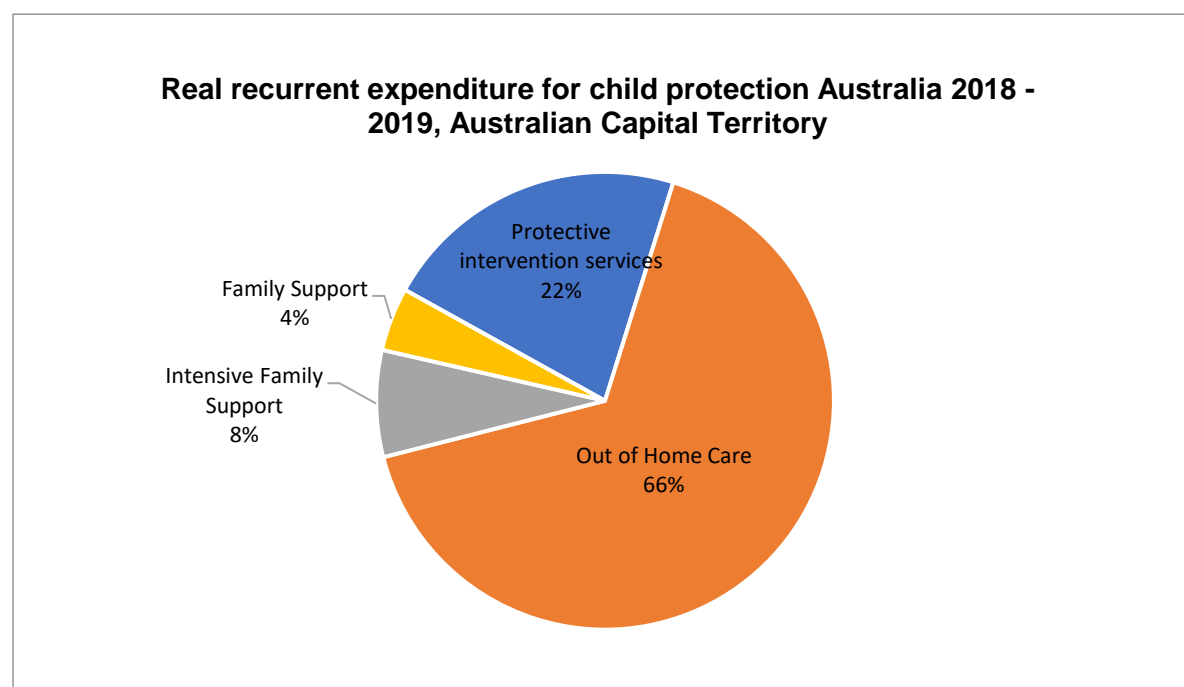
<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

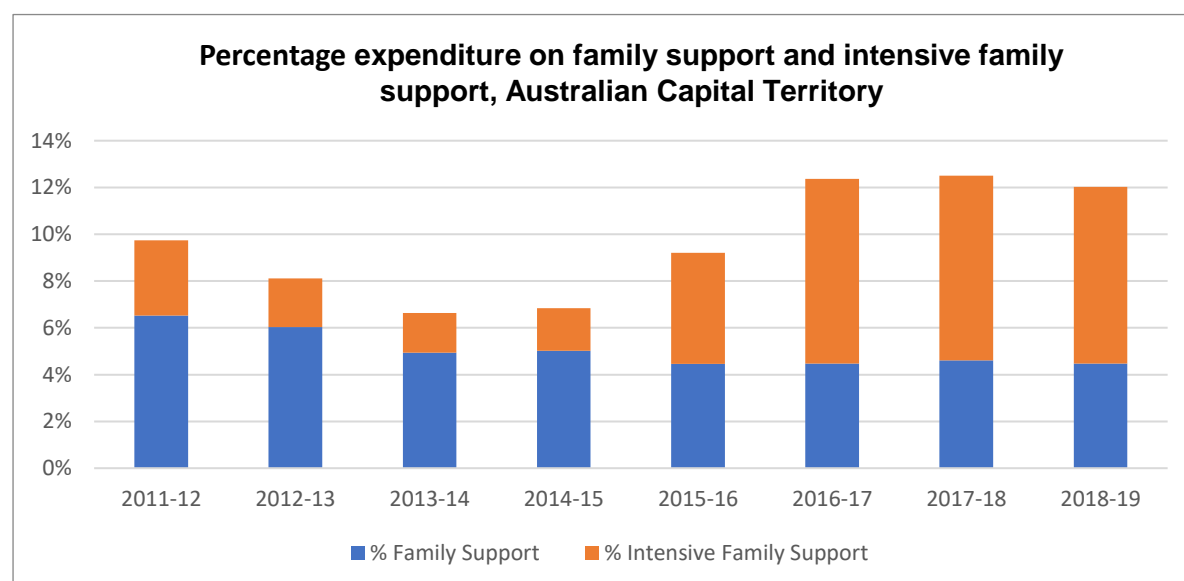
<sup>44</sup> Ibid.



**Figure 2: Real recurrent expenditure for child protection in Australia 2018 - 2019, Australian Capital Territory**



**Figure 3: Percentage expenditure on family support and intensive family support, Australian Capital Territory**



## Conclusion

The Australian Capital Territory has a dedicated out-of-home care strategy which places a significant focus on reducing the number of Aboriginal and Torres Strait Islander children entering care. However, an independent evaluation of the strategy and the data reveals that concerted action, including increased proportional expenditure on family support services delivered by ACCOs is needed to reduce the number of children in care and to create meaningful change for children and their families. Further, community leaders have expressed that there needs to be a cultural shift within the Directorate to ensure decisions about child removals are being made in an impartial and culturally responsive way.

## Partnership

Community leaders have expressed that while the government has implemented a number of initiatives to promote partnerships, interaction with independent Aboriginal and Torres Strait Islander sector leaders and families has not been meaningful and self-determination in the child protection context has been very limited.

This section will consider progress on systems to provide Aboriginal and Torres Strait Islander oversight of the child protection system; Aboriginal and Torres Strait Islander service provision; and involvement of ACCOs in decision-making about individual cases.

## Aboriginal and Torres Strait Islander oversight

### Aboriginal and Torres Strait Islander Agreement 2019-2028

During the reporting period, the ACT Government continued to work towards its objectives set out in the *Aboriginal and Torres Strait Islander Agreement 2019-2028* (Agreement). The Agreement indicates that the government will work with the Aboriginal and Torres Strait Islander Elected Body to deliver against the outcomes in the Agreement over the next 10 years. One of the core objectives of the Agreement is to ensure Aboriginal and Torres Strait Islander children and young people grow up safely in their families and communities. The government has developed a two-tiered approach to monitoring its progress under the Agreement.

### Our Booris, Our Way

The Our Booris, Our Way Steering Committee released its final report in 2019. The ACT Government has agreed in full to 28 recommendations and sub-recommendations and agreed in principle to a further seven.<sup>45</sup> One recommendation has been noted. In line with Recommendation 15 from the final report, an Interim Implementation Oversight Committee (comprised of representatives from the Aboriginal and Torres Strait Islander community) has been established to provide direction to government on the implementation of recommendations. Despite this, community leaders have stated that lack of action to implement the recommendations has been disappointing.

The Aboriginal and Torres Strait Islander Elected Body was represented on the Our Booris, Our Way Steering Committee. The Directorate has reported that their advocacy role has ensured that the review recommendations are at the forefront of government decision-

---

<sup>45</sup> ACT Government input provided to inform the *Family Matters Report 2020*, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

making. Community leaders, whilst recognising the need and importance of the Elected Body, have stated that it must be a statutory, independent body for its potential to be realised.

### **Aboriginal and Torres Strait Islander Co-Design Network and the Ngura Naraganabang (Safety in the Pouch) Advisory Group**

The Directorate reported that in May 2019 it developed the Aboriginal and Torres Strait Islander Co-Design Network (Network) as part of the Early Support: Changing Systems, Changing Lives reform initiative. This initiative is focused on changing the human services systems, including the child protection system, so that it prioritises wellbeing and early supports. The Network comprised of Aboriginal and Torres Strait Islander community members with lived experience and expertise in the human services system in the Australian Capital Territory works with the Directorate to inform service, practice, and policy changes. In the reporting period, the Network has collaborated with the Directorate on several policy, practice, and service design initiatives, including an evaluation of Family Group Conferencing<sup>46</sup> (see information under the Participation section), and the development of the Australian Capital Territory policy position on the non-adoption of Aboriginal and Torres Strait Islander children (see information under the Connection section).

The Directorate has stated that the Senior Aboriginal Policy Officer, a position developed in the last reporting period, has contributed to developing external partnerships. This has been done through the Ngura Naraganabang (Safety in the Pouch) Advisory Group, a stakeholder group comprising all Aboriginal and Torres Strait Islander representatives in key services across government and non-government, and the Aboriginal and Torres Strait Islander Co-Design Network.

### **Children's commissioner and peak body**

The Steering Committee recommended that the government establish an Aboriginal and Torres Strait Islander Children's Commissioner and conduct a feasibility study on setting up a dedicated peak body that could be independent advocates for Aboriginal and Torres Strait Islander children. The ACT Government has not responded to the recommendation about the dedicated children's commissioner and agreed in principle to the feasibility study. The Steering Committee has stressed that both of these mechanisms are key elements of reforming the system to work for Aboriginal and Torres Strait Islander children and their families.<sup>47</sup>

## **Aboriginal and Torres Strait Islander service provision**

The Directorate reports that it is undertaking a feasibility study into establishing ACCOs focusing on children and young people. This development was mentioned in SNAICC's 2019 *Implementation Review* and it is unclear when the study will be released and acted upon. Currently there is no delegation of custody and guardianship functions and powers to ACCOs. It is imperative that these options are looked at as part of the feasibility study.

The Directorate has also stated that it is working with Gugan Gulwan in 2019-20 to identify suitable accommodation options to meet its ongoing needs to deliver services for Aboriginal

---

<sup>46</sup> The Directorate has reported that this evaluation is currently being finalised and will be shared with SNAICC once ready.

<sup>47</sup> Our Booris, Our Way (2019). *Our Booris, Our Way Final Report 2019*, pp.78-79 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf).

and Torres Strait Islander children and families. A feasibility study has been completed and the final report has been delivered to government and the Gudan Gulwan Board for consideration.

Currently just one ACCO, Gudan Gulwan, is provided funding in the child protection context. This ACCO through Family Functional Therapy has been able to work with families to produce tangible, positive outcomes. This reveals that relinquishing power and funding to ACCOs is the most effective way to bring about necessary change.

## Aboriginal and Torres Strait Islander input to decision-making on specific cases

The Directorate has reported that CYPS policies and procedures have been updated and training has been undertaken to encourage staff to seek input from Aboriginal and Torres Strait Islander individuals or organisations when making individual case decisions. Input can be provided by way of written or verbal submissions. This is embedded in section 10 of the *Children and Young People Act 2008* (ACT). While this is a positive step, SNAICC noted in its baseline analysis in 2018 that there is no requirement to ensure that such submissions are sought out by the decision-maker.<sup>48</sup> Legislative reform is necessary to ensure there is an obligation to seek input. There is also a lack of a resourced function for ACCOs to provide input or to facilitate the input of children, family and community members in decision-making.

## Data

The ACT Government has reported that just 6% of its expenditure on child protection was granted to ACCOs, despite 29% of children in the system being of Aboriginal and Torres Strait Islander descent.<sup>49</sup> There has been no improvement since the 2018-19, 2017-18 and 2016-17 reporting periods.<sup>50</sup> All of the funding was provided to Gudan Gulwan to implement Functional Family Therapy.

## Conclusion

There have been some steps taken to improve and promote meaningful partnerships with ACCOs and communities, including the setting up of an Interim Implementation Oversight Committee to oversee the implementation of the recommendations made by the Our Booris, Our Way Steering Committee. However, sector leaders have stated that many of these actions remain tokenistic and there has not been a genuine effort on the part of the government to relinquish power and funding to ACCOs.

This assessment is supported by the data which reveals that funding to ACCOs has remained the same over the past three years. It is unclear when the feasibility study on the expansion of ACCOs will be released and acted upon and there remains no dedicated children's commissioner or peak body.

---

<sup>48</sup> See section 10 of the *Children and Young People Act 2008* (ACT); and SNAICC. (2018). *Baseline Analysis of Best Practice Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Australian Capital Territory*, p. 4 available at <https://www.snaicc.org.au/wp-content/uploads/2019/02/ATSICCP-Baseline-ACT-Final-April-2018.pdf>.

<sup>49</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>50</sup> SNAICC (2019). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Australian Capital Territory 2019*, available at [https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019\\_ACT.pdf](https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019_ACT.pdf)

## Placement

### Finding kinship carers: Finding Kin Project and the Family Finding Model

The Our Booris, Our Way Steering Committee has noted that kinship carers are assessed for their suitability through onerous ways and recommended that Aboriginal and Torres Strait Islander children should be placed with Aboriginal and Torres Strait Islander kin “immediately upon removal rather than being moved to foster care while carer checks are conducted when stable family options for care are present.”<sup>51</sup> The Steering Committee also recommended that kinship carer assessments should be conducted in a transparent and timely way and that additional resources should be applied to ensure minimal delays.<sup>52</sup>

The Directorate has agreed with the intent of these recommendations and developed the Finding Kin Project, the first stage of which comprises an e-Learning module for all CYPS case managers.<sup>53</sup> The Directorate has also stated that it will commence the development of a Family Finding Model for Aboriginal and Torres Strait Islander children in order to assist case managers with the early identification of kin.<sup>54</sup>

While the Steering Committee welcomed these developments, it expressed disappointment with the Directorate for merely agreeing with the intent of the recommendations rather than agreeing to implement them in full.<sup>55</sup> It will be important to assess the efficacy of the Finding Kin Project and the Family Finding Model in the 2021 *Implementation Review*.

Placement in accordance with the hierarchy of placement options seeks to ensure that the highest level of connection possible is maintained for a child to their Aboriginal and/or Torres Strait Islander family, community, culture and Country. Proper application of the placement hierarchy requires child protection decision-makers to exhaust all possible options at one level of the hierarchy before considering a lower-order placement. As such, it is important that all efforts are taken to streamline processes for identifying and assessing Aboriginal and Torres Strait Islander kinship carers so that children can be placed with a carer at the top of the placement hierarchy in the first instance.

### Supporting kinship carers

In addition to finding and assessing kinship carers in a timely and transparent fashion, it is important to provide these carers with the supports they need to care for Aboriginal and Torres Strait Islander children.

The Our Booris, Our Way Steering Committee recommended that the “Directorate be more direct and transparent with supports that are available for Aboriginal and Torres Strait Islander kinship carers”<sup>56</sup> and that it “design and communicate a simple, accessible and

---

<sup>51</sup> Our Booris, Our Way. (2019). *Our Booris, Our Way Final Report 2019*, p 85 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Our Booris, Our Way. (2019). *Our Booris, Our Way Final Report 2019*, p. 84, available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)

equitable process by which kinship carers can access or apply for supports with a mechanism to dispute the findings and have circumstances re-evaluated”.<sup>57</sup> It was stressed that these processes should be designed with community input.

The Directorate has stated that it is in the process of developing an information sheet for CYPS staff on *Engaging with Aboriginal and Torres Strait Islander Grandparents* so that staff are better able to support grandparent kinship carers. The information sheet is in the early phase of development and CYPS also committed to identifying other potential information sheets for kinship carers. It is unclear what kinds of supports are and will be provided to these carers.

The Steering Committee has acknowledged these developments but noted that additional work is needed to “repair and build confidence in CYPS operations and processes for kinship carers.”<sup>58</sup> The Steering Committee noted that ultimately this work should be done by a peak body.

## Placing a child in accordance with the ATSICPP

The Directorate stated that during the reporting period it developed the *Placing a Child in Accordance with the Aboriginal and Torres Strait Child Placement Principle* which embeds the placement hierarchy. As the document was finalised and introduced on 30 June 2020, it will be assessed in more detail in the 2021 Implementation Review.

## Data

In 2018-19, 64.3% of Aboriginal and Torres Strait Islander children in care were placed with kin or other Aboriginal and Torres Strait Islander carers, which is higher than the national average (62.3%).<sup>59</sup> This is also an increase since 2017-18 when the rate was 62.3%.<sup>60</sup> However, just 42.2% of children were placed with Aboriginal and Torres Strait Islander carers in 2018-19, which is below the national average of 43.8%.<sup>61</sup> On a positive note, 42.2% is an increase from the previous year when the rate was 41.2% in the Australian Capital Territory.<sup>62</sup>

---

<sup>57</sup> Ibid.

<sup>58</sup> Ibid.

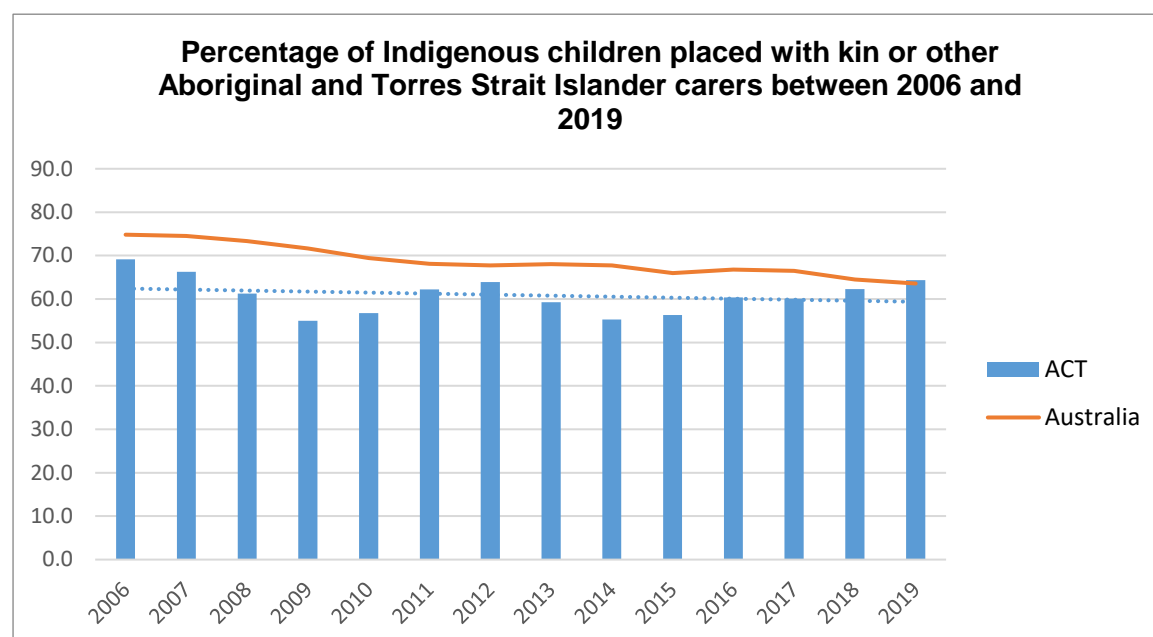
<sup>59</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>60</sup> SNAICC (2019). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Australian Capital Territory 2019*, available at [https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019\\_ACT.pdf](https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019_ACT.pdf)

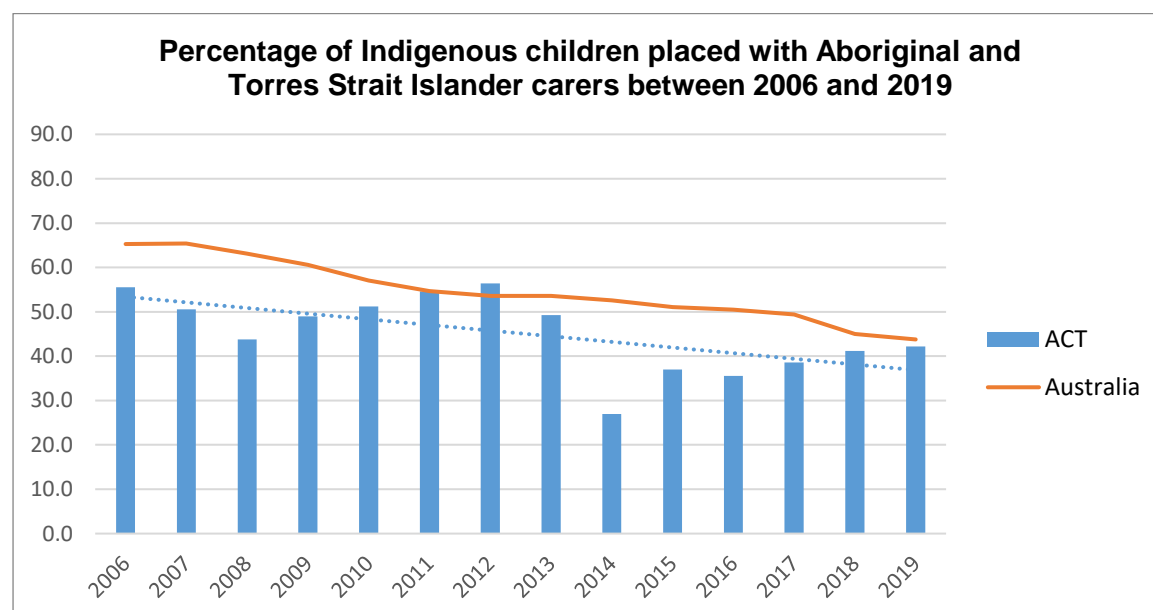
<sup>61</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>62</sup> SNAICC (2019). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Australian Capital Territory 2019*, available at [https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019\\_ACT.pdf](https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019_ACT.pdf)

**Figure 4: Percentage of Indigenous children placed with kin or other Aboriginal and Torres Strait Islander carers between 2006 and 2019**



**Figure 5: Percentage of Indigenous children placed with Aboriginal and Torres Strait Islander carers between 2006 and 2019**



## Conclusion

The Directorate has taken some steps to improve the ways Aboriginal and Torres Strait Islander kinship carers are found, assessed, and supported so that more children can be placed in a placement at the top of the placement hierarchy. However, community leaders have expressed disappointment at the fact that the Directorate has not agreed to implement their recommendations on kinship care in full. The data clearly shows that concerted effort must be taken to identify Aboriginal and Torres Strait Islander carers.



## Participation

The ACT Government has taken some measures to increase the participation of Aboriginal and Torres Strait Islander children and families in child protecting decision-making in the reporting period.

### Family-led decision-making

The ACT Government has continued its Family Group Conferencing (FGC) program. As reported in last year's *Implementation Review*, the government reiterated its commitment to spending a portion of \$1.44 million over four years in the 2018-19 budget to support the program.<sup>63</sup> The FGC model is for Aboriginal and Torres Strait Islander families at risk of ongoing involvement with the child protection system. The program works with families to keep children at home or to plan for the successful restoration of children to their families following some time in out-of-home care. According to the Directorate, "where children are not able to stay safely at home, the team works with and supports families to identify the most appropriate kinship options to ensure the children remain connected to family and community".<sup>64</sup> It is reported that the program is staffed entirely by Aboriginal professionals from within the Directorate who are supported and mentored by Curijo Pty Ltd, an Aboriginal organisation. While the Directorate notes that staff are independent of child protection decision-making, they are not independent Aboriginal and Torres Strait Islander facilitators. Therefore, this program does not fully align with the intent of the ATSICPP. Further, community leaders have mentioned that this process is not family-led and that more power should be given to families to develop their own plans for the care of their children.

The practice guidance developed in September 2019 entitled *Working with Aboriginal and Torres Strait Islander Families: Providing Culturally Responsive Practice* states that families should be able to identify any community members, ACCO representatives or members of the CYPs Cultural Services Team that they would like to attend a FGC with them.<sup>65</sup> No information has been provided on how many families who requested the presence of community members or ACCO representatives during FGC were able to receive these supports.

According to the Directorate, 29 families have accessed FGC involving 47 children in the reporting period.<sup>66</sup> Of the 29 families that accessed the program, 15 families actively participated in making decisions about how to keep their children safe and 16 children and young people participated in making decisions about their own care.<sup>67</sup>

The Our Booris, Our Way Steering Committee has acknowledged the significant funding that has been pledged to this program but were concerned that the current resources dedicated

---

<sup>63</sup> SNAICC (2019). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Australian Capital Territory 2019*, available at [https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019\\_ACT.pdf](https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019_ACT.pdf)

<sup>64</sup> ACT Government input to inform this review.

<sup>65</sup> Community Services, ACT Government (2019). *Working with Aboriginal And Torres Strait Islander Families: Providing Culturally Responsive Practice*, p. 12, available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0009/682623/CSD\\_OHCS\\_Strategy\\_web\\_FINAL.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0009/682623/CSD_OHCS_Strategy_web_FINAL.pdf).

<sup>66</sup> ACT Government input to inform this review.

<sup>67</sup> Ibid.



to facilitators are not enough to ensure that all Aboriginal and Torres Strait Islander families can benefit from the program in a timely way.<sup>68</sup>

## Conclusion

The ACT Government has dedicated a significant amount of funding to the FGC program and the program has shown promising results. However, this process is not driven by independent Aboriginal and Torres Strait Islander facilitators and therefore does not fully align with the intent of the ATSICPP. Further, it is important to ensure that funding is allocated appropriately so that all Aboriginal and Torres Strait Islander families who have come into contact with the child protection system are able to benefit.

## Connection

It is crucial that Aboriginal and Torres Strait Islander children maintain connection to their family, community, culture and Country. This means ensuring that children do not enter out-of-home care in the first place. However, if they do enter the system, connection can be maintained through cultural plans, reconnecting children with higher order placements where they have been placed in a lower order placement, and reunifying children with their families.

## Cultural plans

The Directorate reported that a Senior Aboriginal Policy Officer from the Directorate has developed a new cultural plan template in consultation with Ngura Naraganabang and the Aboriginal and Torres Strait Islander Co-Design Network.

The cultural plans must now be endorsed by a cultural panel comprised of senior Aboriginal staff within the Directorate. There appears to be no external, independent Aboriginal and Torres Strait Islander people on this panel. The panel determines review dates for all cultural plans, provides advice to staff on implementation and provides quality assurance on the plans. The new cultural plans provide explicit arrangements for ensuring cultural connections and obligations are maintained and encouraged. This template was introduced to staff in 2020.

133 cultural plans were completed in the reporting period.<sup>69</sup> As at 31 December 2019, 93% of Aboriginal and Torres Strait Islander children in care had cultural plans.<sup>70</sup>

## Reunification

The Functional Family Therapy program (discussed in the Prevention section) not only works with families to prevent children from entering care but is set up to work to restore children in out-of-home care to their families. Sector leaders have pointed out that disappointingly no families have been referred to this program in relation to reunification.

---

<sup>68</sup> Our Booris, Our Way (2019). *Our Booris, Our Way Final Report 2019*, p.76 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)

<sup>69</sup> ACT Government input to inform this review.

<sup>70</sup> Community Services, ACT Government (2020). *A Step up for Our Kids – Snapshot Report April 2020*, p.12 available at [https://www.communityservices.act.gov.au/\\_data/assets/pdf\\_file/0006/1560741/Paper-A-Step-up-for-Our-Kids-Snapshot-Report-April-2020-1.pdf](https://www.communityservices.act.gov.au/_data/assets/pdf_file/0006/1560741/Paper-A-Step-up-for-Our-Kids-Snapshot-Report-April-2020-1.pdf)

The Our Booris, Our Way Steering Committee recommended “that prompts and triggers to considering restoration are mapped and implemented, especially when there has been a positive change in parenting capacity”.<sup>71</sup> The Directorate “agreed with intent” to this recommendation. The Steering Committee expressed disappointment about this and noted that more must be done to actively pursue reunification options. It noted that while the Directorate had created a Restoration Panel to assess possibilities for restoration for individual children, the Steering Committee did not know “how the panel works, when a case may come to the attention of the panel or whether there are Aboriginal and Torres Strait Islander staff on this panel to ensure a cultural lens to restoration”.<sup>72</sup> They also stated that the panel appears to be an internal process which does not involve any independent Aboriginal input.<sup>73</sup>

Community leaders have stated that there seems to be no evidence that reunification is being actively pursued. This assessment is supported by the data outlined below.

## Permanency and adoption

On 2 October 2019 the Directorate convened a community forum to agree on a policy position on adoption for Aboriginal and Torres Strait Islander children and young people who are on a Care and Protection Order. The Directorate reported that the workshop brought together key Aboriginal and Torres Strait Islander community leaders and service providers, as well as members of the community with lived experience of interacting with CYPs. The attendees confirmed the policy position that adoption is not suitable for Aboriginal and Torres Strait Islander children and young people who are on care and protection orders, without exception. In January 2020 the CYPs enacted the policy of no adoption. No Aboriginal and Torres Strait Islander children were adopted during the reporting period.<sup>74</sup>

Despite this positive step, the Steering Committee has expressed its concern that there is a “rush to permanency”<sup>75</sup> which is “denying the opportunity for restoration of Aboriginal and Torres Strait Islander children to their families.”<sup>76</sup> Pursuing permanency options without actively pursuing options for restoring children to their families risks children’s right to their family, community, culture and Country.

## Data

The data on Connection reveal the following:

- Of the children in out-of-home care in 2018-19, just 9 children moved from a non-relative/kinship placement to a relative/kinship placement, significantly less than the 25 children in 2017-18.<sup>77</sup> Given there were 71 Aboriginal and Torres Strait Islander children

---

<sup>71</sup> Our Booris, Our Way (2019). *Our Booris, Our Way Final Report 2019*, p.87 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)

<sup>72</sup> Our Booris, Our Way (2019). *Our Booris, Our Way Final Report 2019*, p 87 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)

<sup>73</sup> Ibid.

<sup>74</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>75</sup> Our Booris, Our Way (2019). *Our Booris, Our Way Final Report 2019*, p.87 available at [https://www.strongfamilies.act.gov.au/\\_data/assets/pdf\\_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf](https://www.strongfamilies.act.gov.au/_data/assets/pdf_file/0011/1457813/Our-Booris-Report-FINAL-REPORT.pdf)

<sup>76</sup> Ibid.

<sup>77</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

who were in non-Indigenous, non-kin placements in 2018-19, this is a disappointing result.<sup>78</sup>

- The rate of Aboriginal and Torres Strait Islander children on long-term permanent care orders was particularly high in the Australian Capital Territory (67.5 per 1,000) in 2018-19.<sup>79</sup>
- Of the 30 Aboriginal and Torres Strait Islander children and young people exiting out-of-home care in the reporting period, 11 (36.7%) returned home.<sup>80</sup>
- While there were 199 Aboriginal children in out-of-home care at 30 June 2019, only 24 were reunified in 2018-19.<sup>81</sup> This is an improvement from the previous year when the number was 17<sup>82</sup> but the Australian Capital Territory had the lowest reunification numbers compared to other states and territories.<sup>83</sup>
- Just 8 children were reunified/restored to their birth parents within 12 months of entering out-of-home care in 2018-19.<sup>84</sup>

## Conclusion

Despite some positive steps, especially in relation to the development of a new cultural plan template and a policy of no adoption, the data reveal that there remain a number of Aboriginal and Torres Strait Islander children who are disconnected from their culture. More must be done to find kin placements (see Placement section) so that children in care can be placed higher in the placement hierarchy and to restore children in care to their families. Pursuing permanency options without increasing resources to reunification efforts and ensuring children in care are connected to family and culture risks undermining the connections necessary for Aboriginal and Torres Strait Islander children to thrive.

---

<sup>78</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, *Report on Government Services – Chapter 16 – Child Protection, 2020*, Table 16A.21.

<sup>79</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>80</sup> ACT Government input to inform this review.

<sup>81</sup> Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.