

REVIEWING IMPLEMENTATION OF
THE ABORIGINAL AND
TORRES STRAIT ISLANDER
CHILD PLACEMENT
PRINCIPLE
NEW SOUTH WALES
2020



SNAICC
National Voice for our Children

Review of the ATSICPP 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

Introduction.....	3
Snapshot of progress and areas for improvement.....	4
Overview	7
Key findings	7
Family is Culture: key recommendations.....	8
Key overarching initiatives	9
Community voices.....	9
What the data says	10
Prevention	10
Community voices.....	15
Family is Culture	16
Conclusion.....	16
Partnership.....	16
Positive practice story	18
Community voices.....	18
Family is Culture	18
Conclusion.....	19
Placement.....	19
Community voices.....	21
Family is Culture	21
Conclusion.....	22
Participation	22
Community voices.....	23
Family is Culture	23
Conclusion.....	23
Connection	24
Reunification.....	24
Community voices.....	24
Other issues.....	25
Family is Culture	25
Conclusion.....	26

Introduction

This report reviews the progress of the NSW Government 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.¹ 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 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”.²

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.

¹ SNAICC – National Voice for our Children (2018). *Baseline Analysis of Best Practice Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: New South Wales*, available at <https://www.snaicc.org.au/wp-content/uploads/2019/02/ATSICPP-Baseline-NSW-Final-April-2018.pdf>

² 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

Snapshot of progress and areas for improvement

Progress summary	Areas for improvement
Implementation across all elements	
<p>The <i>Children's Guardian Act 2019 (NSW)</i> commenced on 1 March 2020.</p> <p>The independent OOHc review, <i>Family is Culture</i>, was released in October 2019.</p> <p>Ongoing implementation of the Aboriginal Case Management Policy (ACMP).</p>	<p>Improve resourcing and implementation of policies and mechanisms that support the intent and realisation of the ATSI CPP.</p> <p>Improve data collection and reporting on progress and outcomes.</p>
Prevention element	
<p>Ongoing implementation of legislative, policy and program initiatives that progress the ATSI CPP.</p> <p>Funding of:</p> <ul style="list-style-type: none"> the Permanency Support Program (PSP) family preservation packages Nabu, an ACCO-designed early intervention and intensive family service pilot model Family Group Conferencing program (FGC) including increasing supply of Aboriginal facilitators nine Aboriginal Child and Family Centres (ACFCs) a range of family preservation programs. 	<p>Examine service delivery barriers, gaps and good practice, and develop strategies to increase referrals of Aboriginal families to Functional Family Therapy (FFT-CW) and Multisystemic Therapy for Child Abuse and Neglect (MST-CAN) services to increase utilisation to up to 50% of places for Aboriginal families.</p> <p>Increase medium- to long-term funding for ACCOs to deliver Intensive Family Based Services (IFBS) and other targeted early intervention and prevention strategies.</p> <p>Strengthen funding requirements for non-Aboriginal services to ensure implementation of ATSI CPP.</p> <p>Develop practice guidance for delivering FGC for Aboriginal Families. Targeted recruitment of Aboriginal FGC facilitators.</p> <p>Commit to the implementation of AbSec's <u>Aboriginal Family Preservation and Restoration guidelines</u>.</p>
Partnership element	
<p>Their Futures Matter audit announced.</p> <p>Aboriginal Evidence Building in Partnership project initiated, aiming to build evaluation capabilities of the ACCO sector.</p> <p>Funding for Curijo to provide sector workforce development.</p> <p>Funding of PSP packages to service providers for the delivery of family finding, genealogy and cultural support planning.</p> <p>Ongoing funding for nine ACFCs.</p> <p>Pilot funding to Nabu.</p> <p>Funding AbSec to support establishment of three ACCOs in Western and Far Western NSW to deliver permanency support services.</p>	<p>In 2018-19, 5.9% of the total expenditure on family support, child protection and out-of-home care (OOHC) services delivered to children in New South Wales was spent on ACCOs (<i>The Family Matters Report 2020</i>). This is significantly less than the percentage of children in care that Aboriginal or Torres Strait Islander (40%) in NSW.</p> <p>Commit to funding and appropriately resourcing implementation of the <i>Family is Culture</i> Report recommendations.</p> <p>Commit to appropriate resourcing of ACCOs and their capacity to represent and advocate on matters affecting Aboriginal children, families, and communities.</p> <p>Build the capacity of the Department of Communities and Justice (the Department) Aboriginal workforce and improve the cultural proficiency of service delivery.</p> <p>Improve the Department's consultation and communication processes with Aboriginal communities and organisations in particular regions.</p> <p>Ongoing training and implementation of the Winangay Aboriginal Kinship Assessment tool.</p>
Placement element	
<p>Expansion of group supervision under the NSW Practice Framework, with consultation with Aboriginal casework specialists and community contacts as required.</p> <p>Corrections co-location aims to deliver an integrated service with both Community Services' child protection caseworkers and Corrective Services staff to improve outcomes for children in contact with the child protection or whose parents are in custody.</p>	<p>Improve training, consultation protocols and processes to align with the ATSI CPP.</p> <p>Improve consistency of implementation of the ACMP.</p> <p>Placements of Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers have reduced by 1.1 percentage points (from 52.6% to 51.5%) over 2018-2019, and by 21.1 percentage points over 2009-2019.</p>
Participation element	
<p>Ongoing support of Family Group Conferencing (FGC), with 47% of all family conferences convened in 2019-20 with Aboriginal families.</p> <p>Training of frontline staff in and implementation of the Winangay Kinship Assessment tool.</p> <p>Continue the roll out of the mandatory Connecting to Aboriginal Communities training to frontline staff in all districts.</p>	<p>Improve funding to support ACMP implementation, including strengthening Aboriginal practitioner-led engagement with families and communities and Aboriginal family-led decision-making processes.</p> <p>Support capacity building for and increase supply of Aboriginal FGC Facilitators.</p> <p>Develop guidance for delivering FGC with Aboriginal families.</p> <p>Continued training of frontline workers in Winangay Kinship Assessment tool and additional resources.</p>

Connection element

Commissioned AbSec to engage with Aboriginal stakeholders and develop a Guardianship Support Model.

Ongoing funding of ACFCs.

Commencement of pilot Aboriginal Mentoring program.

Establishment of ACCOs to deliver a continuum of services for children and families in local areas; with a focus in the first instance on OOHC service provision.

Commencement of rollout of the Quality Assurance Framework (QAF) and its Aboriginal Cultural Connections Questionnaire (ACCQ), which aims to support caseworker identification of how best to support cultural needs.

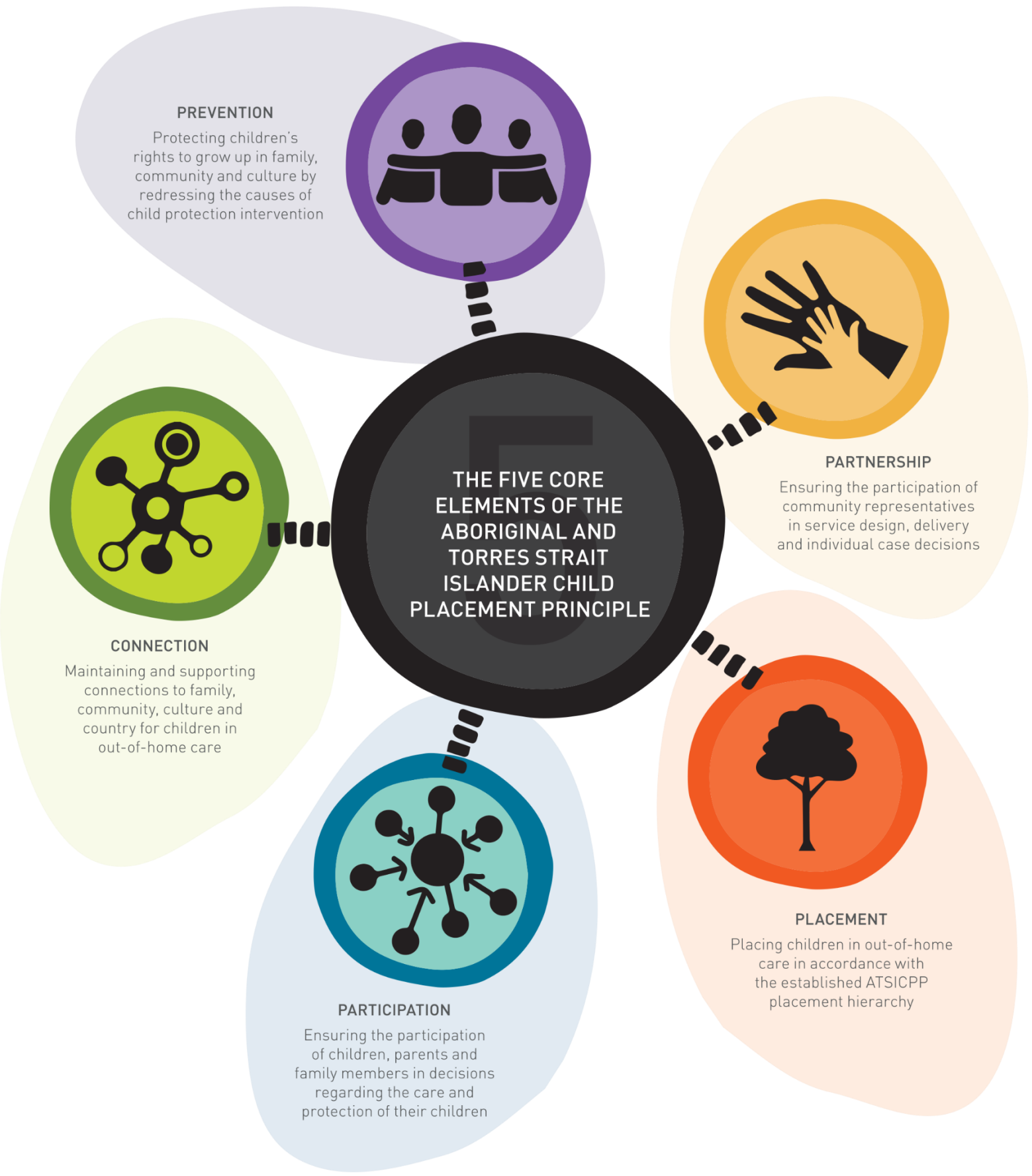
Publication of internal Practice Advice notes by the Office of the Senior Practitioner for practitioners.

Improve communication and detail of COVID-19 information that addresses the practical needs of children and families, particularly in cases of restoration.

Improve consistency of contact and implementation of ACMP by Department and non-Aboriginal providers.

Improve adherence to transition policies by non-Aboriginal organisations.

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



Overview

Key findings

Since the 2018 Baseline and 2019 review of the ATSICPP, the *Family is Culture: Independent Review of Aboriginal children and young people in out-of-home care (Family is Culture)* was published in October 2019. *Family is Culture* comprehensively reviews the New South Wales out-of-home care (OOHC) system, detailing 125 recommendations aimed to address issues in OOHC and support implementation of the ATSICPP.¹ While a detailed summary of *Family is Culture* is outside this review's scope, findings are noted throughout (see also *Family is Culture*'s key recommendations below). The roadmap outlined by *Family is Culture* is consistent with the Family Matters building blocks.²

The NSW Government's June 2020 response to *Family is Culture* is also outside this review period and will be considered in the 2021 review. The whole-of-government response, and the Department of Communities and Justice's (the Department)³ activities, will provide a significant opportunity to reaffirm and demonstrate commitment to improved outcomes for Aboriginal and Torres Strait Islander children and their families.

There are several program and policy initiatives in New South Wales that are promising in their intent and progress towards the ATSICPP. However, these are overshadowed by concerns voiced by sector leaders, such as: inadequate funding; widespread, inconsistent implementation of policies and programs; and the urgent need to improve data collection and reporting.

Key findings for each element include:

- **Prevention:** the pilot and continued investment in ACCOs to deliver early intervention and prevention services is promising, however the continued downward trend of overall percentage of expenditure invested in family support (from 26.05% in 2011-2012 to 13.44 % in 2018-19) is alarming and at inadequate levels to support vulnerable Aboriginal children, families and communities.
- **Partnership:** while some ongoing activities with ACCOs demonstrate intent to strengthen partnerships, sector leaders have reported poor communication from the Department and inconsistent approaches to implementation of initiatives.
- **Placement:** the gradual decline in placements of children with kin or Aboriginal carers is concerning, with sector leaders identifying clear and urgent opportunities for improving practice.
- **Participation:** the Aboriginal Case Management Policy (ACMP) has not been fully implemented in practice, and implementation of the ACMP has not yet been fully funded. This has resulted in districts receiving limited guidance and minimal capacity to support the implementation of the policies key practice enablers to improve outcomes for Aboriginal children and families.
- **Connection:** sector leaders reported observations that cultural components are not adequately or consistently addressed, despite policy and legislative requirements.

Each element is detailed later in this Review, with many of the reported concerns undermining the effectiveness of the ATSICPP and echoing the findings of *Family is Culture*.

¹ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

² 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/>

³ The Department amalgamates former Departments of Family and Community Services (FACS) and Department of Justice.

Family is Culture: key recommendations

Family is Culture considers the ATSCIPP within the context of the New South Wales OOHC system. It identifies broad ATSCIPP implementation issues, including identifying needed structural and practice changes. These include data collection, management, and use; non-compliance and lack of policy and legal enforcement; improving partnership approaches and care practices; strengthening early intervention; and differences in ATSCIPP interpretation and application. Concerns specific to particular ATSCIPP elements are also detailed.

Family is Culture sets out clear recommendations to improve the implementation and effectiveness of the ATSCIPP.⁴ Key recommendations⁵ include to:

- amend the *Children and Young Persons (Care and Protection) Act 1998* (NSW) (Care Act) to reflect all elements of ATSCIPP
- provide resourcing guidance for caseworkers and ongoing training for departmental staff, delivered in partnership with Aboriginal organisations. This should include training on ATSCIPP and good practice casework.
- improve data collection and reporting – this should be designed with Aboriginal stakeholders, reflect all elements of ATSCIPP and compliance with the ATSCIPP be published annually
- in partnership with Aboriginal stakeholders, develop regulations, policies, and strategies to support identifying and de-identifying children in contact with the child protection system as ‘Aboriginal’
- actively fund and support the Aboriginal Case Management Policy (ACMP)
- in partnership with Aboriginal stakeholders, design and provision of training for Magistrates and Tribunal members regarding the intent and elements of the ATSCIPP
- create a public system of tracking consultation processes and recommendations made by Aboriginal stakeholders
- in partnership with Aboriginal stakeholders, design a system for collection and reporting of data about OOHC placement stability
- revise and develop guides and policies supporting best practice family, kinship and other carer assessments, clearances (including Working With Children Checks) and placements
- engage with Aboriginal stakeholders to interpret evidence from recent study on the needs of Aboriginal carers and translate into policy and practice
- develop and provide training on family meetings with Aboriginal families. Support the development, implementation and evaluation of a family group conferencing model designed, led and delivered by an ACCO.
- have the alternative dispute resolution processes under the Care Act overseen by a new, recommended Child Protection Commission
- develop policy guidance on how to promote connection in practice

⁴ See, in particular, Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapters 16-20, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

⁵ See, in particular, Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, pp. xlix – lv, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

- provide parents with targeted support and services that are directly related to a case plan (such as a case plan with a goal of restoration).

The Family Matters Report 2020 also considers *Family is Culture* and subsequent activities outside of this review's reporting period.⁶

Key overarching initiatives

The Department reported several initiatives underway that support the implementation of the ATSICPP, including:

- ongoing implementation of the Aboriginal Outcomes Strategy
- Commencement, in March 2020, of the *Children's Guardian Act 2019* (NSW) that states that the Act is to be applied and administered in accordance with the ATSICPP⁷; however, the Act does not contain any substantive sections to ensure that the ATSICPP is applied. Several amendments were also made to the *Care Act*.⁸
- ongoing implementation of the ACMP, which has the potential to strengthen the role of Aboriginal or Torres Strait Islander families and Aboriginal community-controlled mechanisms across the spectrum of child protection decision-making, and ultimately improve implementation of each element of the ATSICPP
- diverse early intervention programs have commenced or continued
- commissioning of AbSec to lead the development of a Guardianship Support Model
- increasing the number of and building the capacity of ACCOs to deliver services
- offering an alternative dispute resolution process (such as Family Group Conferencing) to all families prior to seeking a court order (unless there are exceptional circumstances).

The NSW Government's responses to *Family is Culture* are outside the timeline for this review.

Community voices

While the direction of the overarching plans and frameworks reflects positive intentions and commitments to achieve better outcomes for Aboriginal and Torres Strait Islander children and their families, sector leaders have raised concerns with the current system that need to be addressed. These include:

- the ongoing gap between the ACMP and its implementation
- inconsistent Department engagement with Aboriginal organisations and stakeholders on legislative, policy and programmatic reforms and service delivery
- inadequate resourcing and mixed implementation of policy mean that the positive reforms have limited meaningful impact

⁶ 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/>

⁷ The Act's guiding principles state that the Act is to be applied and administered in accordance with the ATSICPP, as set out in the *Children and Young Persons (Care and Protection Act) 1998*: s 8 (e).

⁸ Legislation amending the *Children and Young Persons (Care and Protection) Act 1998* (NSW) included: *Statute Law (Miscellaneous Provisions) Act 2019* (NSW); *Statute Law (Miscellaneous Provisions) Act (No 2) 2019* (NSW) and the *Children's Guardian Act 2019* (NSW). The *Children and Young Persons (Care and Protection) Amendment (Private Health Facility Staff) Regulation 2019* (NSW) amended the *Children and Young Persons (Care and Protection) Regulation 2012* (NSW).

- the need for outcome-focused reporting relating to programs and service delivery
- the need for improved communication of coronavirus-related information that addresses the practical needs of children and families, particularly in cases of restoration
- Aboriginal peak body funded for policy and sector development roles, but large funding cuts in 2020
- mixed adherence by non-Aboriginal PSP service providers to their policies of transition of Aboriginal children to ACCOs, and lack of adequate implementation and oversight by the Department.

What the data says

Data indicates that Aboriginal and Torres Strait Islander children continue to be over-represented in the child protection system. Key relevant data for New South Wales in the reporting period includes that:

- Aboriginal and Torres Strait Islander children are currently over-represented in OOHC at a rate 9.5 times that of non-Indigenous children⁹
- as at June 2019, 40% of children and young people in care are Aboriginal and Torres Strait Islander. This indicates a concerning, albeit decelerating trend, with a 1% increase from 2018 (from 39%) and a 6% increase since 2010 (from 34%). Increases in over-representation in New South Wales also reflect a decreasing rate of OOHC entry by non-Aboriginal children.
- there has been a 35% reduction in Aboriginal children entering OOHC since 2015-16, compared to a 49% reduction in non-Aboriginal children¹⁰
- the percentage of Aboriginal or Torres Strait Islander children placed with relatives/kin or other Aboriginal and Torres Strait Islander carers is stable, slightly reducing by 0.1%¹¹ (from 74.4% in 2018 to 74.3% in 2019)
- New South Wales is leading in investment in ACCOs nationally. In 2019-20, 5.9% of the total expenditure on services delivered to children was spent on Aboriginal and Torres Strait Islander community-controlled services. This is significantly less than the percentage of children in care that are Aboriginal or Torres Strait Islander (40%), but is the highest reported expenditure compared with other jurisdictions.¹²
- in 2019-20, 21% more Aboriginal children were restored to their families than in 2018-19.¹³

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: this review focuses on the Department's actions to implement the Prevention element of the principle, noting that true prevention can only be achieved with a whole-of-government approach.

⁹ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, p. 19, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

¹⁰ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, p.67, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

¹¹ This includes a margin of error of 5%.

¹² Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, p. 19, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

¹³ Data provided by the Department.

The Department reported the following activities supporting the Prevention element:

- Ongoing implementation of amendments to the *Care Act*, which includes alternative dispute resolution processes (ADR) required to be offered to all families before care applications (unless there are exceptional circumstances), and family restoration timelines.¹⁴ The *Children's Guardian Act 2019* (NSW) commenced in May 2020, aiming to consolidate child safety mechanisms. This Act is to be applied and administered by the ATSICPP principle set out in the *Care Act*.
- Updating the Permanency Case Management Policy – *Rules and Practice guidance* to refer to Aboriginal cultural safety considerations, including the application of the ACMP which was developed in partnership with AbSec.¹⁵
- Ongoing (2018-2022) implementation of the *Aboriginal Cultural Capability Framework* and funding of \$4 million total for mandatory departmental staff training continues, with coverage of all districts planned over 2019-2020.¹⁶ Over 2,284 departmental staff completed the training prior to a program pause due to COVID-19.¹⁷
- Continuation of the *2017 NSW Practice Framework*, including practitioner training on early intervention and working with Aboriginal families.
- Revision of the mandatory Caseworker Development Program (CDP) and updates to the Casework Practice Mandates, aiming to improve effective casework with Aboriginal families. The CDP was developed with Aboriginal organisations, including AbSec and Grandmothers Against Removal (GMAR) NSW.
- Continuation of the 2017 Aboriginal Outcome Strategy which includes a focus on both early intervention and reducing over-representation of Aboriginal children in OOHC.¹⁸ The strategy states targets of 30% of Targeted Early Intervention (TEI) Program reform funding for Aboriginal families by 2021 and 50% of additional 900 preservation and restoration places for Aboriginal families. Activities include planning with local Districts to meet these targets.
- Approximately 534 (or one-third) of children supported by family preservation programs over 2019-20 were Aboriginal.
- As of 23 June 2020, 192 (or 71%) PSP Family Preservation Packages (see also Partnership) were being delivered to Aboriginal families. Aboriginal organisations or partnerships provided 209 of 380 (or 55%) of PSP packages.
- Pilot funding of Nabu, an ACCO-designed early intervention and intensive family service (see also Partnership).

¹⁴ The 2019 review noted concerns that the February 2019 amendments, including the imposition of a 24-month timeline for restoration, could significantly undermine the aims of ATSICPP. See SNAICC – National Voice for our Children (2020). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle New South Wales*, p. 7, available at https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019_NT.pdf

¹⁵ The ACMP, which seeks to “provide a framework for Aboriginal-led and culturally embedded case management practice to safeguard the best interests of Aboriginal children and young people” was considered in the 2019 review. See also Department of Communities & Justice (2019). *PCMP Rules and Practice Guidance*, available at <https://www.facs.nsw.gov.au/download?file=595198>, and Department of Communities & Justice (2020). *Permanency Case Management Policy Statement – updated January 2020*, available at <https://www.facs.nsw.gov.au/families/permanency-support-program/permanency-case-management-policy/case-management-policy>

¹⁶ The 2017-2021 Framework aims to build Department cultural capability and support the cultural safety of all Aboriginal staff. Department of Family and Community Services (2017). *Aboriginal Cultural Capability Framework 2017-2021*, available at https://facs-web.squiz.cloud/_data/assets/pdf_file/0003/579045/Aboriginal-Cultural-Capability-Framework.pdf

¹⁷ Department of Family and Community Services (2019). *Annual Report 2018-19 - Volume 1: Performances and Activities Report*, p. 41, available at <https://www.facs.nsw.gov.au/download?file=727849>

¹⁸ Department of Family and Community Services (2017). *Aboriginal Outcomes Strategy*, available at <https://www.facs.nsw.gov.au/download?file=592234>

- Ongoing funding of \$3.4 million annually for nine ACFCs to provide quality early childhood education and care and integrated health and family services to Aboriginal children, families, and communities (see also Partnership).
- In response to the 2018 *Tune Review*, the NSW Government committed 900 places each year for families through Multisystemic Therapy for Child Abuse and Neglect (MST-CAN) and Functional Family Therapy – Child Welfare (FFT-CW), half of which are for Aboriginal families. Since the programs commenced August 2017 (to 31 October 2020), 3,304 referrals accepted, including 901 Aboriginal families, and 1,403 families completed, including 364 Aboriginal families.
- An independent evaluation has found MST-CAN and FFT-CW are starting to show a measurable contribution to reducing re-reporting and entries into OOHC for families who successfully complete these programs. The evaluation also found the number of Aboriginal families accessing services could be improved.
- Between August 2017 and June 2020, the Department partnered with AbSec to provide ongoing support to funded service providers, and model developers to assist with culture and Aboriginal community engagement.
- Ongoing funding of other family preservation programs, including Intensive Family Based Support (IFBS) – Aboriginal Program, a family preservation program aimed at reducing the risk of harm to Aboriginal children and young people while assisting them to remain with their families and avoid placement in OOHC. IFBS offers support services to families for up to 12 months. The Department reported that 166 places were being provided to Aboriginal families across NSW at the time of this Review, with Nabu and the IFBS supporting almost 450 Aboriginal children over 2019-20.
- Housing initiatives under the NSW Homelessness Strategy 2018-2023, including activities to engage with Aboriginal tenants.¹⁹
- Other mainstream programs, including:
 - Brighter Futures, a program of services and support to families with children aged 0-9 years or who are expecting a baby. Two trials are currently underway to improve Brighter Futures: Safe Care, an evidence-based coaching program to help parents raise healthy and thriving children; and the Voices and Choices trial, testing a new practice model to increase engagement and sustained participation of vulnerable families developed through behavioural insights research.
 - Youth Hope, an 18-month pilot supporting children aged 9-15 years at risk of significant harm and at risk of accessing the OOHC system.
 - Intensive Family Preservation, a service model that, over 12-52 weeks, provides support for families' experiencing crisis and chronic problems. It aims to prevent future crises and prevent placement in OOHC.

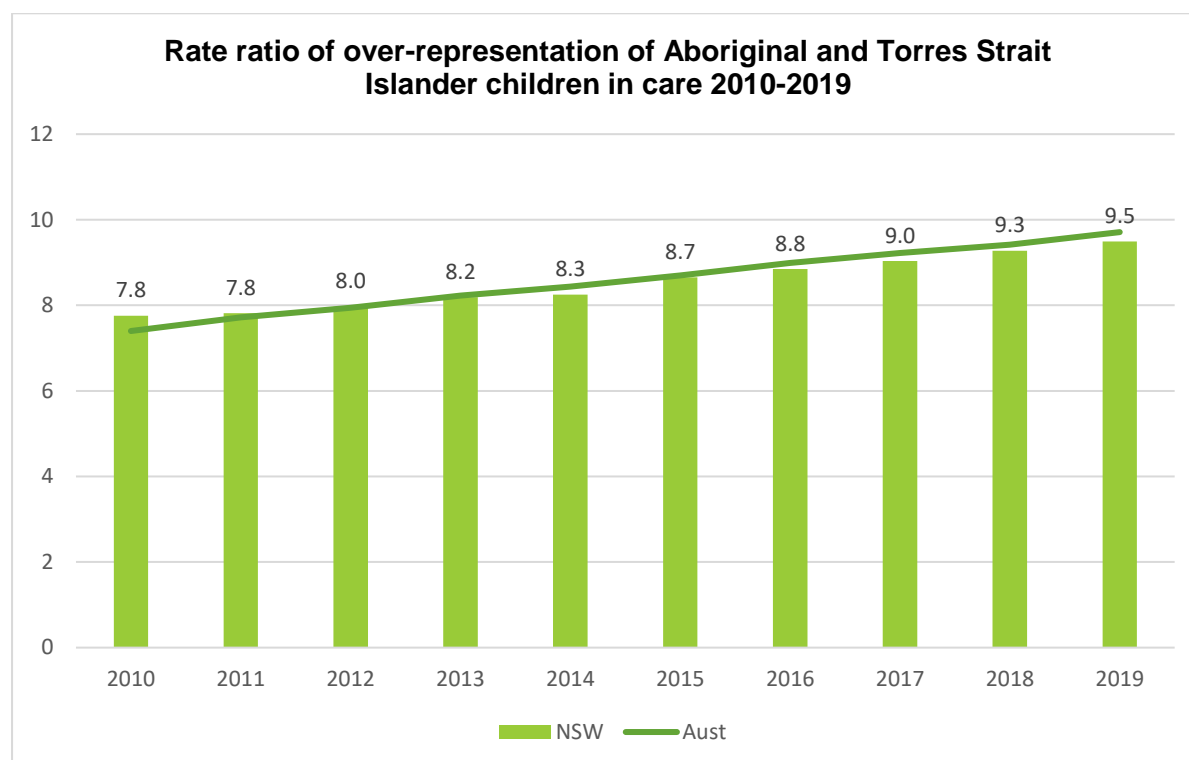
Despite some positive actions to implement the Prevention element, data indicates that Aboriginal and Torres Strait Islander children are over-represented in OOHC in New South Wales at a rate 9.5 times that of non-Indigenous children.²⁰ This is a slight increase to last year's rate (9.3); however, it is below the Australian average rate (9.7) and is third-lowest rate in Australia (see **Figure 1a**).²¹

¹⁹ Reported programs include expanding universal screening and support for homelessness; Sustaining Tenancies in Social Housing, a four-year initiative; and the Place Plans Program, for which funding expired in June 2020.

²⁰ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, p. 19, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

²¹ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, p. 53, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

Figure 1a: Rate ratio of over-representation of Aboriginal and Torres Strait Islander children in care 2010-2019



At June 2019, 40% of children in OOHC in New South Wales were Aboriginal and/or Torres Strait Islander.²² **Figure 1b** shows that the percentage of children in OOHC who are Aboriginal or Torres Strait Islander has continued to grow over the last 10 years. In New South Wales, the percentage has grown from 34% in 2010 to 40% in 2019, representing 6,754 children.²³ This reflects a concerning national trend which has risen from 32% to 40% over the same period.²⁴ Discussion of admission rates and overrepresentation is detailed further in *The Family Matters Report 2020*.²⁵

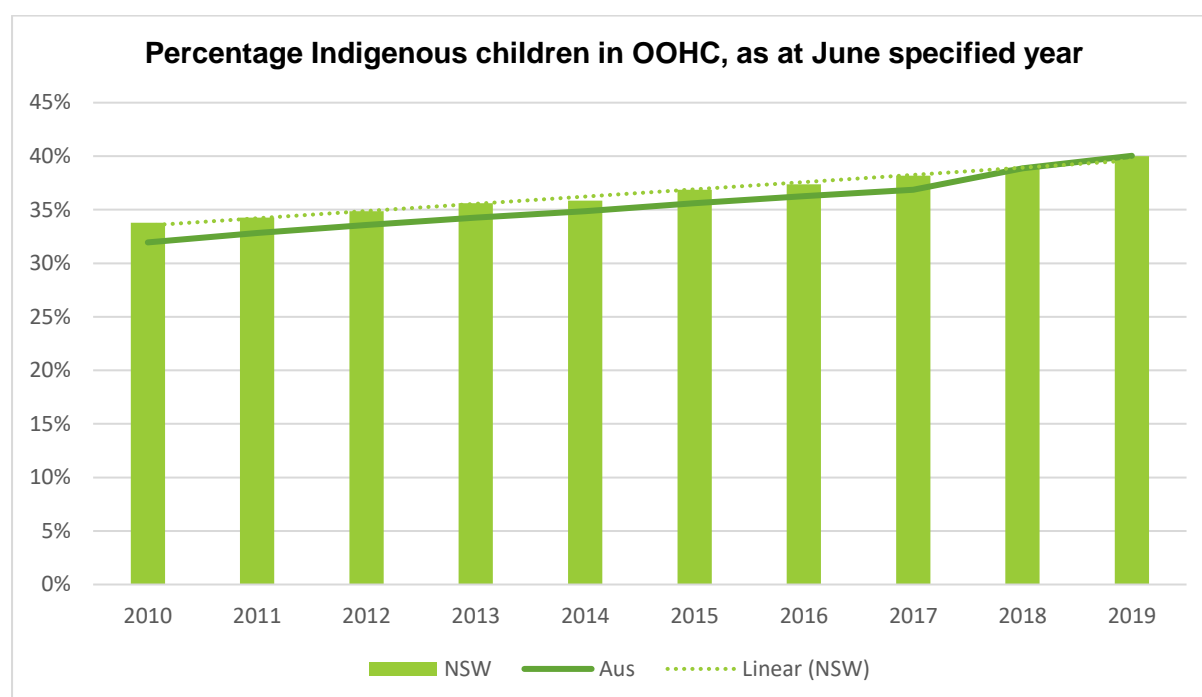
²² Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, Part 1; ROGS 2020 Table 16A.19, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

²³ Ibid.

²⁴ Ibid.

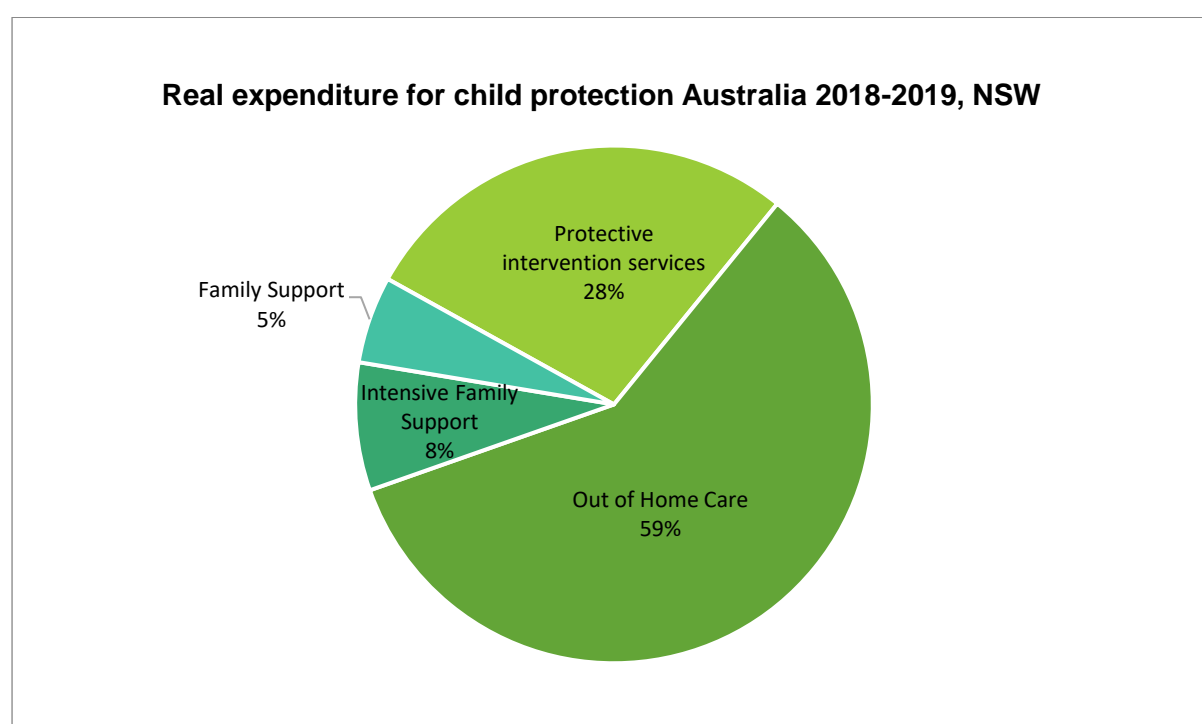
²⁵ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, Part 1, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

Figure 1b: Percentage Indigenous children in OOHC, as at June specified year



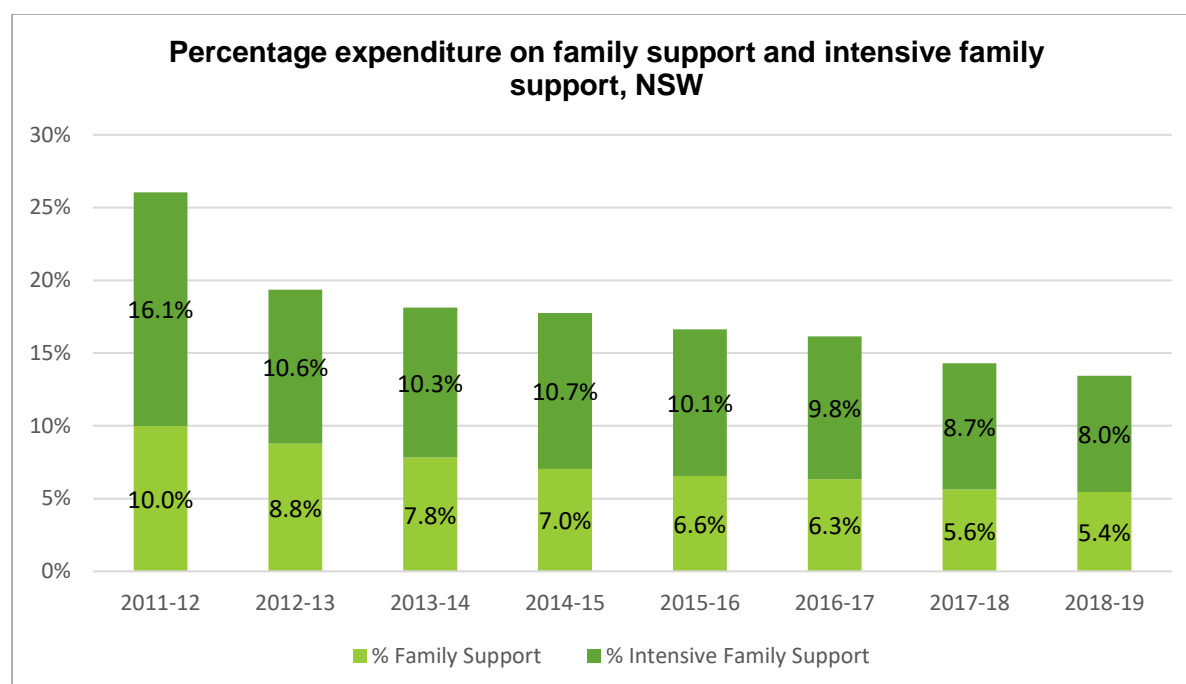
Investment in family support and intensive family support services is essential for strengthening families and preventing them from entering the child protection system. In New South Wales, **Figure 2** indicates that the government's expenditure on family support and intensive family support reduced to 13.4% of the overall real expenditure on child protection in 2018-2019. The majority of expenditure remains in OOHC, with real recurrent expenditure at 58.7% in 2018-2019.

Figure 2: Real expenditure for child protection Australia 2018-2019, New South Wales



This is a significant under-investment in supports that promote the wellbeing of children and families. **Figure 3** indicates that the expenditure on family support and intensive family support has been reducing relative to expenditure on protective intervention and OOHC over the last eight years, from 26.05% in 2011-2012 to 13.44% of total expenditure in 2018-2019.²⁶ This allocation away from preventative services is particularly alarming, as further family support investment is required to significantly reduce the number of Aboriginal children that enter care. Discussion of government investment and distribution is detailed further in *The Family Matters Report 2020*.²⁷

Figure 3: Percentage expenditure on family support and intensive family support, New South Wales



Community voices

While sector leaders reported some promising initiatives, there were several pressing issues identified, including that:

- there is a need for a commitment to ongoing medium to long-term funding for Intensive Family Based Services (IFBS), delivered by five ACCOs and their culturally competent Aboriginal staff, to vulnerable Aboriginal families across various regional areas. These services are delivered within the community and have capacity to be responsive to specific community needs.
- the NSW Government has committed 900 places each year for families through MST-CAN and FFT-CW, half of which are targeted for Aboriginal families. In the 2019-20 FY, the newly issued Program Level Agreements (PLA) included a target of up to 50% of Aboriginal families rather than a specific number. This change has raised concern from community that this significant softens the commitment to Aboriginal and Torres Strait Islander children and families.

²⁶ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, p. 99, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

²⁷ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, Part 3, available at <https://www.familymatters.org.au/the-family-matters-report-2020/>

- there has been limited government response to AbSec's *Aboriginal Family Preservation and Restoration Model Guidelines*, published in March 2020
- the TEI Program was to undergo funding reallocation during November 2019-March 2020 (see Aboriginal Outcome Strategy above); however, its progress is slow, with the Department reporting its launch in June 2020 and COVID-19 has impacted on its implementation. Sector leaders reported clear opportunities for funding reallocation, including on the Mid North Coast of New South Wales where Aboriginal service providers receive only 3% of TEI funding, with the remaining 97% funding delivery by non-Aboriginal services to local Aboriginal families and community.
- data on implementation and outcomes on several programs is unclear or unavailable. Sector leaders indicated particular interest in public access to the developing evidence base for the MST-CAN and FFT-CW programs.

Family is Culture

While many of the programs noted above were not within the *Family is Culture* review period, the report provides detailed consideration of early intervention and appropriate service provision and family support that remains clearly applicable. It provides a comprehensive set of interdependent recommendations that will support early intervention, prevention and diversion away from OOHC.²⁸ These recommendations are underpinned by “the need for trauma-informed, dignity driven and culturally appropriate work before children enter care, and where they do enter care, to support restoration”.²⁹

Conclusion

While the Department has reported some promising ongoing work, there are several issues raised by both community voices and *Family is Culture* that require attention to address the concerning increased percentage of Aboriginal or Torres Strait Islander children in care. This will require not only increasing the overall percentage of investment in early intervention and prevention services, but a sustained and deep commitment to implementing ATSICPP consistently across policies and program delivery.

Partnership

The Partnership element under the ATSICPP aims to ensure genuine involvement by Aboriginal people in all stages of decisions made about children and their families' welfare. This includes engagement as partners in the design and delivery of child protection policies, strategies and services; decisions about the care of individual Aboriginal children; and judicial decision-making processes.

Meaningful partnerships require adequate resourcing. In 2018-19, 5.9% of the total expenditure on family support, child protection and OOHC services delivered to children in

²⁸ See, in particular, Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapters 9 and 16, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

²⁹ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, p. xxxi, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

New South Wales was spent on ACCOs.³⁰ This is significantly less than the percentage of children in care who are Aboriginal or Torres Strait Islander (40%) in New South Wales.

The Department has endeavoured to implement the Partnership element through:

- ongoing implementation of policies that focus on partnership with Aboriginal communities. These include the transition of Aboriginal children in OOHC to ACCOs, the trial of an Aboriginal commissioning approach through AbSec, Aboriginal Case Management Policy, the *Aboriginal Industry Development Strategy* (now called the *Aboriginal Child and Family Investment Strategy*), and the *Guiding Principles for Strengthening the Participation of the Local Aboriginal Community in Child Protection Decision Making (Guiding Principles)*.
- development and pilot trial of the Aboriginal Cultural and Spiritual Identity domain under the Quality Assurance Framework (QAF) with Aboriginal organisations (see also Connection)
- the continuation of many of the programs outlined in the 2018 *Baseline Analysis* and 2019 implementation review, including those established under Their Futures Matter (TFM). An audit of TFM considering governance and partnership arrangements was announced in April 2020.
- the initiation, as part of TFM, of the Aboriginal Evidence Building in Partnership (AEBP) project, with aims to build the evaluation capabilities of the ACCO sector and the evidence base for promising programs run by ACCOs that are supporting Aboriginal children, young people, families, and communities in New South Wales.
- AbSec being commissioned to develop, in partnership with Aboriginal stakeholders, the Aboriginal Guardianship Support Model for better outcomes.³¹ The Department noted that “This approach maximises Aboriginal community control and responsibility for service design and delivery, while streamlining [the Department’s]...contract management. This will ultimately prove to be a test case for the future co-commissioning activities.”
- ongoing training and implementation of Winangay Aboriginal Kinship Assessment tool by Winangay Resources Inc
- ongoing meetings, including a statewide forum, to promote implementation of the most effective strategies to support Aboriginal children families, and communities, including consistent consultation forms
- funding of Curijo, an Aboriginal consulting business, of \$3 million over three years to provide sector workforce development and training focusing on topics relevant to permanency and working with Aboriginal children, families and communities
- funding of AbSec to support the establishment of three ACCOs in western and far western NSW to develop permanency support services
- funding of 380 PSP family preservation packages across New South Wales, with 200 allocated to ACCOs, nine to partnerships between an ACCO and non-Aboriginal service, and 30 to Wirrimbirra Aboriginal Service, totalling 14.6 million towards packages delivered by Aboriginal organisations or partnerships with Aboriginal organisations. Of the 270 families receiving a service through a PSP Preservation

³⁰ Family Matters (2020). *The Family Matters Report 2020*. Melbourne: SNAICC – National Voice for our Children, p. 19, available at <https://www.familymatters.org.au/the-family-matters-report-2020/> Note: SNAICC requests and measures the percentage of ACCO expenditure in total (inclusive of government services).

³¹ For more information on the commissioning and model, see AbSec (2020). *Commissioning for Better Aboriginal Child and Family Outcomes*, available at <https://www.absec.org.au/commissioning.html>

Package on 23 June 2020, 72% were Aboriginal families. Of the 49 families who have achieved their permanency goal in 2019-20, 63% of those were Aboriginal families.

- funding of \$3.4 million annually for nine ACFCs (see also Prevention). In 2018-19, 580 Aboriginal children were enrolled in ACFC programs, representing 89% of enrolment, with 2,228 parents accessing services.
- continued funding of the FGC program of approximately \$3.2m per annum. Additional activities included an updated tender process for Aboriginal applicants aimed to increase supply of Aboriginal FGC Facilitators, Aboriginal organisations and ACCOs on the Department's Panel of Approved Providers (see also Participation).

Positive practice story

Pilot funding was granted to Nabu, an early intervention and intensive family service model, supporting family preservation and restoration.³² Nabu was designed by Waminda, an ACCO servicing Shoalhaven and Illawarra.³³ Its design was guided by the Waminda Model of Care and Balaang Healing Framework which have been developed over a 36-year period with input from community and the Waminda cultural committee and staff. The successful pilot is proposed for expansion and adaptation by other Aboriginal communities.

Nabu commenced in August 2019, is funded \$3.3 million per annum for 64 places (2019-20) and so far has supported 67 families and 165 children. A total of 33 children were 'preserved' in the care of their families and five children restored to their families. Nabu has also provided training for the Department and is working with it to develop ways of working with Aboriginal families and services. An independent formative evaluation of Nabu is underway, and Waminda is actively contributing to the emerging evidence base.

Community voices

Sector leaders reported that:

- initiatives and policies have been applied in a piecemeal manner and are inadequately resourced for effective implementation. Limited program-specific data is available to assess their progress and outcomes.
- there is a concerning reduction of funding for AbSec, the peak Aboriginal organisation providing child protection and OOHc advice in New South Wales. This reduces the sector's capacity to represent and advocate for Aboriginal children, families, and communities.
- there needs to be further expansion of the Department's Aboriginal workforce to meet the gaps in cultural proficiency of service delivery.

Family is Culture

The *Family is Culture* Report considers the Partnership element of ATSICPP in detail, identifying the critical need for the consistent and improved Aboriginal consultation

³² For more information, see Waminda (South Coast Women's Health & Welfare Aboriginal Corporation), 'Nabu', *Waminda*, available at <http://www.waminda.org.au/nabu-family-preservation-restoration>

³³ Waminda had previously received funding under the FFT-CW program, however, explained "it soon became obvious that the rigidity of the program guidelines and approach was not working for Aboriginal families. This led to a courageous decision to withdraw from delivering that service". See The Centre for Healthcare, Knowledge & Innovation (2020). 'Case Study: NABU', available at <https://www.thecentrehki.com.au/case-study-nabu/>

processes, particularly after a child enters care.³⁴ There was also an identified need for transparency and clarity about the progress of recommendations. The report states:

“the qualitative and quantitative data, when considered together, raise serious issues around partnership aspects of ACPP. Not only do these data highlight profound deficiencies in Aboriginal consultation for Aboriginal children who are in care, they highlight a concerning lack of partnership with external Aboriginal community members as is required by ACPP...”³⁵

The report also includes recommendations to support self-determination and the Partnership element, including engagement in systemic reform of legislation, policies, and ways of working with Aboriginal stakeholders.³⁶

Conclusion

There are pockets of good and innovative practice as well as specific recommendations raised by *Family is Culture*; these provide a basis for more consistent approaches to partnerships across the OOHC sector and throughout policy and service delivery processes. However, the clear mismatch between the percentage of service delivery expenditure (5.9%) on ACCOs and the percentage of Aboriginal children in OOHC (40%), which points to the significant changes required to improve outcomes for Aboriginal and Torres Strait Islander children and their families.

Placement

The Placement element seeks to maintain the highest level of connection possible for a child to their Aboriginal family, community, culture, and Country.

The ACMP (see Prevention) sets out the Placement element and aims to support “practitioners to engage early with Aboriginal families and empower families to shape case planning, identifying tailored priorities and solutions to keep children safe and with their family and community”. However, sector feedback and findings from *Family is Culture* highlight the need for renewed commitment to the ACMP’s consistent implementation, including the funding of ACCOs to lead the sector in capacity-building and service provision (see Partnership).

The Department reported the following activities supporting the placement element:

- Ongoing implementation of amendments to the Care Act (see Prevention and Participation).
- Training of frontline staff in and implementation of the Winangay Kinship Assessment tool.

³⁴ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapter 17, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

³⁵ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, p. 273, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

³⁶ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapter 7, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

- As part of the NSW Practice Framework, there has been an expansion of group supervision of significant decisions involving Aboriginal children and removal, with consultation with Aboriginal casework specialists and community contacts required.³⁷
- Placement outcomes support with Corrections co-location, aiming to keep mothers connected to their children and families and improving the possibility of restoration with the provision of support services.

Figure 4 indicates the percentage of Aboriginal or Torres Strait Islander children placed with kin or Aboriginal and Torres Strait Islander carers in New South Wales is stable, reducing by 0.1% from 74.4% in 2018 to 74.3% at 30 June 2019. However, this percentage has steadily decreased since 2006, when the percentage was 85.3%. New South Wales' 2019 percentage remains significantly higher than the national average (63.6.%) and is the second-highest performing jurisdiction.

Figure 4: Percentage of Indigenous children placed with kin or other Aboriginal and Torres Strait Islander carers between 2006 and 2019, in New South Wales

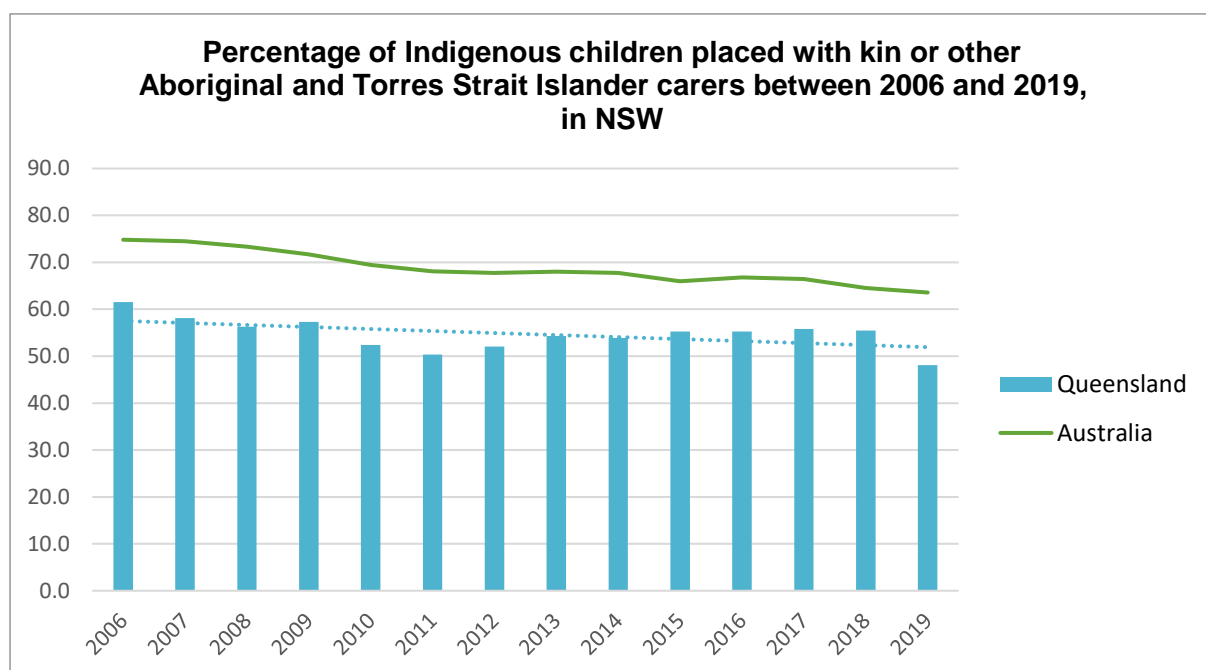
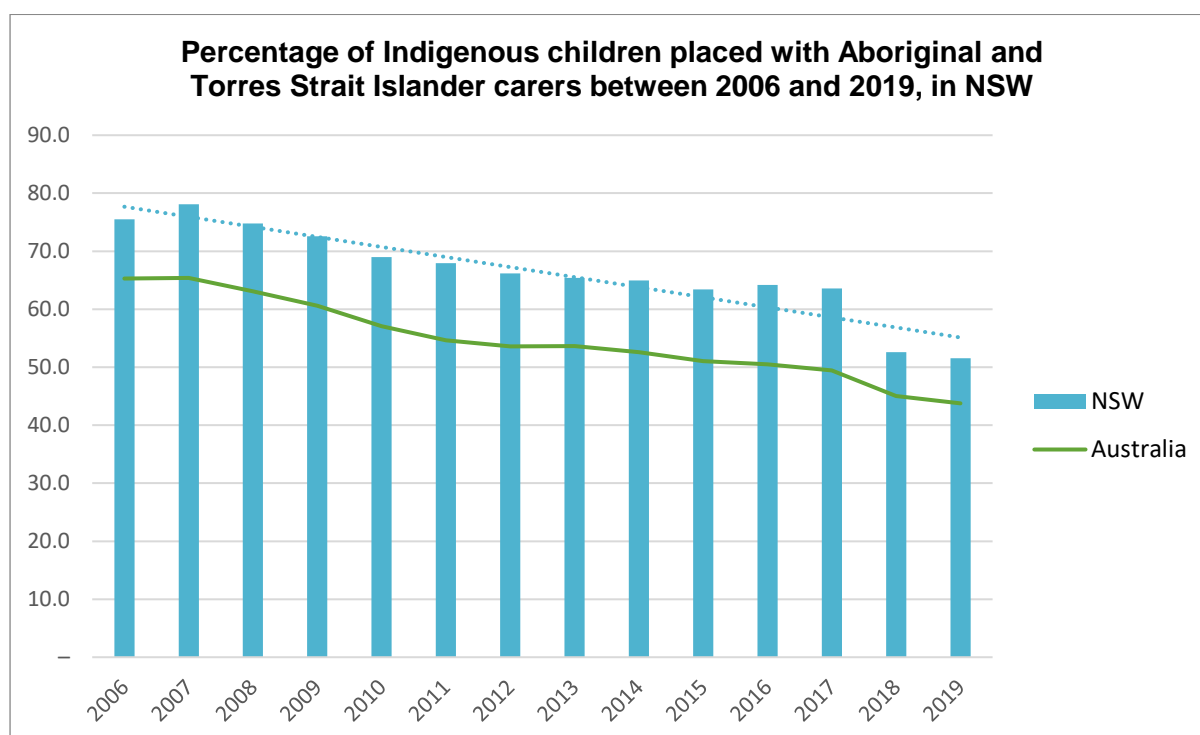


Figure 5 shows a concerning downward trend in placement of Aboriginal or Torres Strait Islander children with Aboriginal or Torres Strait Islander carers who are not kin. Placements have reduced by 1.1% percentage points (from 52.6% to 51.5%) over 2018-2019, and by 21.1% percentage points over 2009-2019. This figure may be a better representation of children who are placed in accordance with the ATSCIPP, as while they are not deemed 'kin', Aboriginal and Torres Strait Islander carers may help children maintain connection to culture more effectively than non-Indigenous, non-family member people of significance the child's life.

³⁷ This was also detailed in the 2019 review. See SNAICC - National Voice for our Children (2019). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle New South Wales*, p. 11, available at https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSCIPP-compliance-review-2019_NT.pdf

Figure 5: Percentage of Indigenous children placed with Aboriginal and Torres Strait Islander carers between 2006 and 2019, in New South Wales



Community voices

Sector leaders reported serious concerns, including:

- uneven implementation of the ACMP, which sets out preferred placement options in line with the ATSCIPP (see Prevention)
- an absence of proper consultation processes or consultation about placements with Aboriginal organisations, family, and community
- observed instances of questioning the Aboriginality of some children and young people.

Family is Culture

The *Family is Culture* report included a chapter focused on particular implementation issues limiting the intent and impact of the ATSCIPP Placement element.³⁸ The report cautioned against relying on data on placement (such as placement with a relative, kin, or Aboriginal carer) as assumed compliance with the ATSCIPP, explaining in detail the extension of the ATSCIPP beyond its form within the *Care Act*. It also identified implementation gaps and practices that limit compliance with the Placement element, such as inadequate placement consultations, carer assessment, and data collection. Examples of good placement practice, such as sibling co-placement were also recounted, as well as opportunities to strengthen placement planning and stability. The ACMP was also referenced for guidance on supporting

³⁸ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapter 18, available at https://www.familyisculture.nsw.gov.au/data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

Aboriginal identification, with recommendations to clarify and strengthen processes and implementation.³⁹

Conclusion

Limited data was available on the progress or outcomes of the ongoing initiatives noted in this review. However, while it is promising that New South Wales has retained a higher percentage (74.3%) of placement with kin or Aboriginal and Torres Strait Islander carers than most other states and territories, the issues raised in this review and *Family is Culture* point to a concerning high proportion of Aboriginal children who are not placed in accordance with the Placement element, with a likely adverse impact on Aboriginal and Torres Strait Islander children's cultural development and connections while in care.

Participation

The Participation element aims to ensure Aboriginal and Torres Strait Islander people are enabled, empowered, and supported to participate in the decisions that affect them, including by any casework practitioners involved.

The Department reported the following activities supporting the Participation element:

- Ongoing implementation of amendments to the *Care Act*, which includes:
 - ADR processes required before care applications (see Prevention). These processes can support family engagement in decisions about the care of their child, and can be provided by an Aboriginal facilitator and supported by an Aboriginal caseworker, kin or community member.
 - Subject to safeguards and assessments, parents can nominate a guardian for their child, which the court can order by consent.⁴⁰
- Uncapped support of Family Group Conferencing (FGC), a form of family-led decision-making and ADR. In 2019-20, Aboriginal families represented 49% of all referrals for FGC. Of the 698 family conferences convened, 47% were with Aboriginal families and 50% of all children involved in FGC were Aboriginal.
- Draft guidance for delivering FGC for Aboriginal families was developed in collaboration with Aboriginal organisations, AbSec, Aboriginal Reference Group, and Aboriginal FGC facilitators.
- Ongoing commitment under the ACMP and Aboriginal Impact Statement (see Prevention and Connection) to Aboriginal participation in decision-making and program or policy design.
- Ongoing funding of ACFCs, including one ACFC that achieved provisional OOHCA accreditation during this review period. The Department notes that ACFCs are frequently advocates for families and carers, supporting participation in decisions regarding the care of children (see also Prevention).

³⁹ See, for example, Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, p. 258 onwards, available at

https://www.familyisculture.nsw.gov.au/data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

⁴⁰ The 2019 review detailed these amendments and concerns. See SNAICC - National Voice for our Children (2019). *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle New South Wales*, p. 13, available at https://www.snaicc.org.au/wp-content/uploads/2020/01/ATSICPP-compliance-review-2019_NT.pdf

- Training of frontline staff in and implementation of Winangay Kinship Assessment Tool.
- DCJ is proactively working to increase supply of Aboriginal FGC facilitators and improve practice guidance regarding working with Aboriginal families.
- Continued the roll out of the mandatory Connecting to Aboriginal Communities training to frontline staff in all districts.
- Promotion of staff engagement with the Aboriginal Cultural Capability Web App, which aims to improve their knowledge and cultural capacity to engage with local Aboriginal families.

Community voices

Some sector leaders reported concerns that:

- the ACMP has not been fully implemented in practice, and practical implementation of the ACMP has not yet been fully funded. This has resulted in districts receiving limited guidance and minimal capacity to support Aboriginal practitioner, family, and community participation.
- implementation and outcome-focused data in relation to the IFBS, and other initiatives supporting family participation, is not available.

Family is Culture

The *Family is Culture* report considers the participation element of ATSICPP in detail, underlining the importance of engagement with the Aboriginal child, their family, kin and community for placement stability and improved outcomes for Aboriginal children, families, and communities.⁴¹ The report identified that while clear legislative and policy directives on participation exist, caseworkers routinely failed to consult with Aboriginal children, parents, and family members during casework. It also identified issues relating to the Partnership element, such as working with Aboriginal organisations and community members to support placement (see Partnership). Recommendations reinforce concerns raised by the community voices under this review, emphasising the need for further training, implementation, and monitoring in partnership with ACCOs.⁴²

Conclusion

Shifting the administration of Aboriginal family-led decision-making to ACCOs would assist in overcoming the significant power imbalances between the Department and families, and support a more culturally safe process to strengthen participation and accountability. The ACMP states that Aboriginal family-led decision-making should be delivered by ACCOs, though there has been no progress to implement this. There is no data available on the percentage of FGCs for Aboriginal families that were facilitated by an Aboriginal facilitator, or number of Aboriginal facilitators, for this reporting period. The Department anticipates this will be reported in future reporting periods as amendments are made to the FGC data collection system. However, the sector feedback and findings of *Family is Culture* point to inconsistent, inappropriate or ineffective consultation with parents, kin, families, and children.

⁴¹ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapter 19, available at https://www.familyisculture.nsw.gov.au/_data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

⁴² Ibid.

Connection

The ATSICPP's Connection element recognises the critical importance for an Aboriginal child to maintain or to re-establish their connections to family, community, culture, and Country.

The Department reported the following activities supporting the Connection element:

- Ongoing implementation of amendments to the Care Act, providing the option for the Court to make a contact order until a child reaches 18 years when a guardianship order has been made. This aims to support the maintenance of connection to family, community and culture.
- Ongoing implementation of the ACMP (see also Placement), which prioritises preservation, placements with families and kin, the co-placement of siblings and maintaining proximity to Country. It also requires cultural care and support as part of a child's overall care plan.
- Commissioning of AbSec in May 2019 to engage with Aboriginal stakeholders and develop a Guardianship Support Model, its implementation and evaluation.⁴³ The model is focusing on achieving positive outcomes for Aboriginal children on guardianship orders. Initial implementation sites, planned for late 2019, include Hunter New England and South Western Sydney (see Partnership).
- Ongoing funding of ACFCs, which deliver a range of programs and services that aim to ensure all children learn about and stay connected to their culture (see Prevention and Partnership).
- TFM, in partnership with the Sydney, South Eastern Sydney, Northern Sydney (SSESNS) District commenced a pilot Aboriginal Mentoring program for young people aged 15-18 years who are in care.
- Publication of several practice notes for practitioners working with Aboriginal families and communities and maintaining cultural connections.
- Development and trial of the Quality Assurance Framework (QAF) and the Aboriginal Cultural and Spiritual Identity domain (see Community voices below).
- Publication of internal Practice Advice notes for practitioners working with Aboriginal and Torres Strait Islander children and families by Office of the Senior Practitioner.

Reunification

During the current reporting period, reunification data was incomplete or not available for New South Wales. The Department reported that seven Aboriginal children were adopted in this review period. Six Aboriginal children were adopted by non-Indigenous people, risking disconnection from family and culture while 2,005 Aboriginal children were placed on third-party parental responsibility orders.

Community voices

Quality Assurance Framework (QAF)

⁴³ AbSec's support for an effective model of support provision for Aboriginal children and young people on guardianship orders does not alter AbSec's opposition to these orders.

Progress was reported on the QAF⁴⁴ and the Aboriginal Cultural and Spiritual Identity domain. Under this domain, an Aboriginal Cultural Connections Questionnaire (ACCQ) has been developed to support the caseworker gain an understanding of the child or young person's cultural connections and identify areas that can be supported or connections made. This is completed bi-annually which allows caseworkers and their managers to track cultural outcomes, and ensures cultural is reviewed and acted upon as a part of regular practice. The Department has committed to data remaining disaggregated and monitored by individual caseworkers and sites the ACCQ was developed in partnership with the Burrun Dalai ACCO (a trial site) and Aboriginal ACCO advisors, with its validation to be undertaken during the expansion of the QAF trial sites.⁴⁵ The QAF was subject to co-design and initial trials in four services over 2018-19; however, published results were not specific to the domain focusing on Aboriginal culture.

Other issues

Some sector leaders raised significant concern about implementation of this element. These include:

- the impact of COVID-19 on children in OOHC spending time with their family, including in restoration cases. While the Department has a COVID-19 response website, improved communication, further information, and guidance on practical ways to respond to the needs of Aboriginal children in OOHC was needed.
- the need for improved consistency of contact (and implementation of the ACMP) by the Department and non-Aboriginal service providers with local Aboriginal communities to seek critical cultural advice about children and young people upon their removal
- similarly, some reports of non-Aboriginal service provider's piecemeal or stalled implementation of their Transition Policy (of Aboriginal children in their care) to accredited ACCOs. This significantly compromises the children's connection to their community and culture.
- as noted in the 2019 implementation review, there are no adequate mechanisms to ensure that Cultural Care Plans and Cultural Support Plans are followed after a guardianship or adoption order.

Family is Culture

The *Family is Culture* report considers the connection element of ATSICPP in detail, underlining its essential contribution to a child's sense of wellbeing, identity, and placement stability.⁴⁶ The report identified the need for further data on connection with family and kin, including frequency, supervision requirements, and gaps between planned contact and practice. The importance of family support services to assist with appropriate contact with family (including siblings or family members in incarceration) was highlighted. The report also highlighted mixed levels of quality and implementation of individualised cultural support plans, observing that improvement against participation and partnership elements will provide strong foundations for better connection outcomes. The report sets out recommendations for strengthening policy, practice, and legislative approaches to

⁴⁴ The purpose of the Quality Assurance Framework is to provide regular information about each child to caseworkers to support and inform their case planning. This was raised in the 2019 review.

⁴⁵ See Burrun Dalai Aboriginal Corporation, *Annual Report 2019-2020* (2020), available at https://a5985e0c-5d14-41dc-9eee-835261ec3d73.filesusr.com/ugd/c049cb_2c0dbe1dcc1b4cc1bd7533f28737e7c4.pdf

⁴⁶ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapter 20, available at https://www.familyisculture.nsw.gov.au/data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf

supporting restoration, and removing adoption as an option for Aboriginal children in OOHC.⁴⁷

Conclusion

Failure to ensure ongoing connection is inconsistent with the best interests of Aboriginal children and their lifelong wellbeing. There are opportunities to significantly improve the Department's approach to supporting Connection, particularly as they relate to ATSCIPP's Partnership and Participation elements. Policies to increase guardianship and adoption remain despite the known risks to enduring connections for Aboriginal children and young people; however, the commissioning of AbSec to support the development of the Guardianship Model is a positive step towards improving situations where guardianship orders are made.

⁴⁷ Davis, M. (2019). *Family Is Culture Review Final Report: Independent Review into Aboriginal Out-of-Home Care in NSW*, chapters 21 and 22, available at https://www.familyisculture.nsw.gov.au/data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf