

REVIEWING IMPLEMENTATION OF
THE ABORIGINAL AND
TORRES STRAIT ISLANDER
CHILD PLACEMENT
PRINCIPLE
NORTHERN TERRITORY
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 wellbeing.

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.

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Introduction

This report reviews the progress of the Northern Territory 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 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”.²

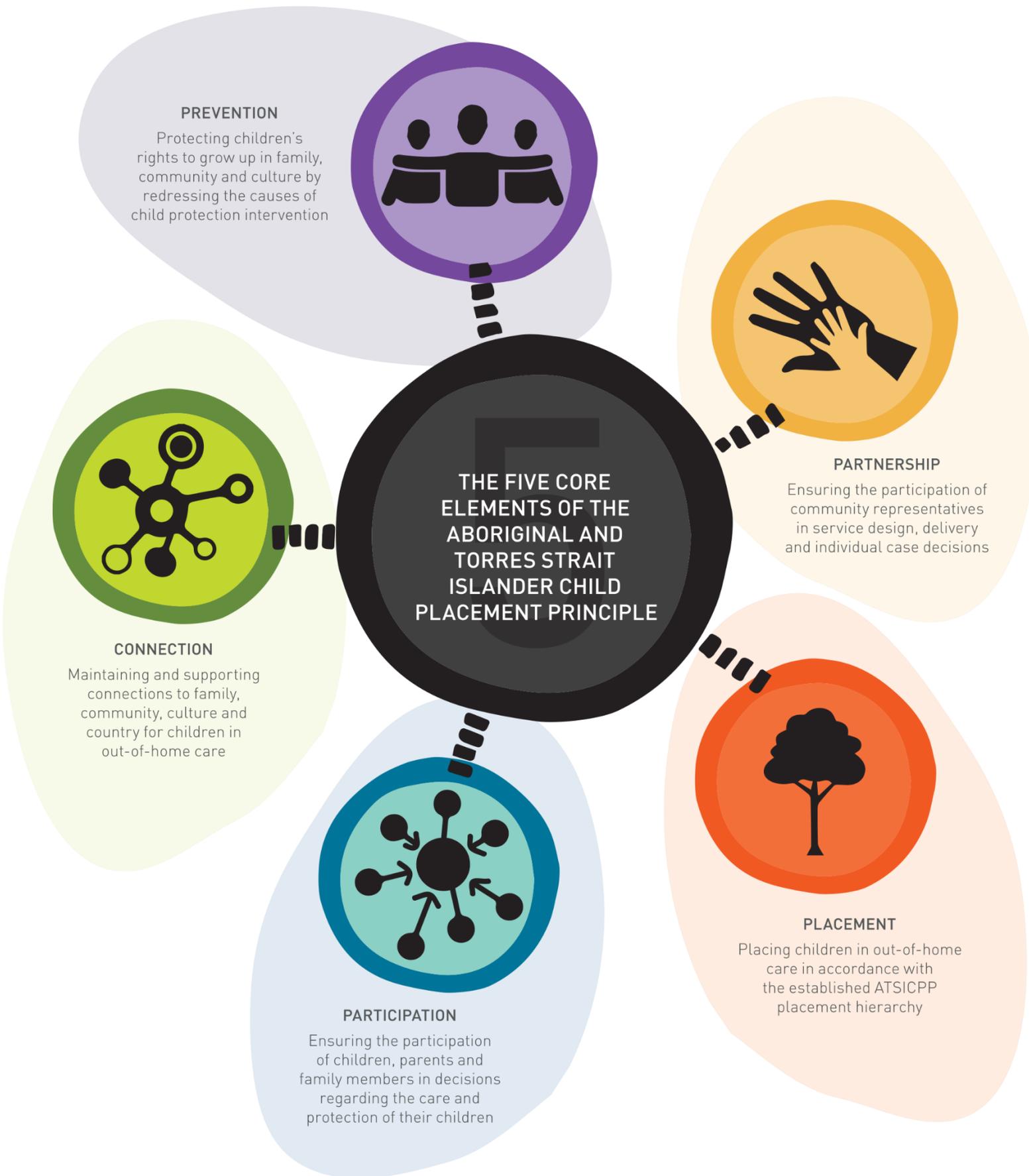
The review aligns with the priority reform areas of the *National Agreement on Closing the Gap*. It aims to hold governments accountable to reforming their systems in a way that will achieve better outcomes for Aboriginal and Torres Strait Islander children and their families, as well as highlight the 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: Northern Territory*, available at <https://www.snaicc.org.au/wp-content/uploads/2019/02/ATSICPP-Baseline-NT-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>Amendments to the <i>Care and Protection Act 2007 (NT) (the Act)</i> commence.</p> <p>Signs of Safety model of child protection adopted.</p> <p>Ongoing implementation of <i>Everyone Together Aboriginal Affairs Strategy 2019-2029</i>, including measures focusing on placements and family reunifications.</p>	<p>Further investment in a public health model.</p> <p>Improved data and reporting measuring the implementation of each element of the ATSCPP and/or service delivery effectiveness.</p> <p>Concerns that COVID-19 restrictions have a disproportionate impact on Aboriginal children and families. Need for clear and consistent messaging.</p>
Prevention element	
<p>Legislative changes to the Act commence and focus on early intervention and prevention services, requiring appropriate and preventative services aiming at engaging and strengthening families, and requiring family-led decision-making processes.</p> <p>Preventative program initiatives including Men's Behaviour Change Program, Safe and Together Model, Back on Track Program for teenagers in contact with youth justice or at risk of contact, ACCO-operated child and family centres have opened or have planned openings in late 2020.</p>	<p>Limited or unavailable housing. Appropriate, consistent, and personalised social services remain critical.</p> <p>Delays in funding of two early intervention family support services in 2018-19.</p> <p>Family decision-making processes require stronger mechanisms to improve family participation.</p>
Partnership element	
<p>Funding of a new kinship care model – Children Safe, Family Together – in partnership with Tangentyere Council and other ACCOs.</p> <p>Tripartite Forum meetings continued and funding allocations to NGO members negotiated.</p> <p>Additional forums and consultations supporting partnerships with Aboriginal organisations.</p>	<p>Limited resources hinder the implementation of the Act's amendments (such as access visits).</p> <p>Children Safe, Family Together could be extended to services across the Northern Territory.</p> <p>Strengthen investment and ensure an integrated approach to capacity building beyond the establishment of the child and family centres.</p>
Placement element	
<p>Introduction of a new out-of-home care (OOHC) model.</p> <p>Funding of initiatives to support kinship carers.</p> <p>Data shows a decrease in the number of children entering OOHC and an increase in proportion of placements with kinship carers or Aboriginal carers.</p>	<p>Placements are primarily in foster care.</p> <p>Concerns that kinship care assessment times remains lengthy (4-6 months).</p> <p>Improve compliance with ATSCPP implementation, focusing on process, transparency, and communication.</p>
Participation element	
<p>Amendments to the Act commence and intent to increase family participation in child protection and decision-making.</p>	<p>Existing processes require stronger mechanisms and independent facilitators to support Aboriginal family-led decision-making.</p> <p>Appropriate legal and caseworker representation of all Aboriginal children could be improved with professional training and accreditation requirements.</p>
Connection element	
<p>Legislative changes to the Act commence and now require non-family members to meet a higher threshold for permanency orders.</p>	<p>Improve provision of individualised care plans that are specific and comprehensive, particularly in relation to 'culture'. Placements are often not with cultural groups, leading to loss of language.</p> <p>Reunification is not consistently considered or reviewed from the outset. Reunification plans should consistently commence when children enter care. Family support services should be available to parents both pre and after removal.</p>



Overview

This review considers the activities reported by Territory Families, the main Northern Territory Government agency responsible for delivering children and family services including statutory child protection. The review draws on consultation in 2020 with ten Aboriginal organisations working across areas of health, family support, kinship care, legal services, and community development across the Top End and Central Australia. The reporting period is from 1 May 2019 to 30 April 2020.

Key findings

Since the 2018 *Baseline Analysis* and 2019 implementation review, the Northern Territory Government has continued to progress promising legislative and policy changes to reduce the over-representation of Aboriginal children in the child protection system. These include important overarching policy directives supporting different elements of the ATSICPP, including local decision-making and partnerships with ACCOs.

The commencing legislative reforms include an increased emphasis on early intervention and prevention services, increased child and family participation in decision-making, and a higher threshold requirement for permanency orders. However, data tracking the impact and implementation of several initiatives are not available for this review period, with sector leaders emphasising the need for transparency and communication of data measures and outcomes.

The continued investment in ACCOs to deliver early intervention and prevention services is promising; however, the overall percentage of investment in family support and intensive family support (24.8%) also relates to a high internal spend on family support functions that are part of the Department which delivers the statutory intervention services.¹ Most other states and territories recognise that families are more likely to seek and receive support from services that are *not* connected to the agency/department responsible for intervening and removing children. Thus, family support services should be outsourced, and priority should be made to ACCOs.

Regarding the placement of children, although there was an increase over 2018-19 of 3.6% of placements with kin or Aboriginal carers reported to 36.9%. This remains the lowest percentage in Australia for that reporting period. While Territory Families highlighted high recruitment rates of kinship carers, it is unclear whether this has translated into increased placements of Aboriginal children with kin or Aboriginal carers. Further, the Northern Territory is the only jurisdiction which does not report placements of Aboriginal children with non-indigenous relative/kin. Consequently, non-indigenous family are included in the 'Aboriginal and Torres Strait Islander relative/kin' category. This is highly problematic, inaccurate, and impedes the ability to measure the implementation of the Placement element of the principle, which specifies that Aboriginal and Torres Strait Islander kin should be prioritised.

The funding and support of ACCO-developed models demonstrate intent to strengthen partnerships; however, sector leaders have reported consistent, sector-wide communication could be improved. While Territory Families reported that 87% of children in care had a care

¹ 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/>

plan, sector leaders called for improvements in addressing the cultural components of the plans.

Consequently, while the strategic frameworks, policies, and procedures demonstrate a commitment to the goals and intentions of the ATSICPP, there are significant gaps in their implementation as evidenced by the data and community views of inconsistent, culturally unsafe, and poor practice. Thus, further work is required to achieve the desired outcomes.

Key overarching initiatives

The key piece of Northern Territory legislation affecting the care of Aboriginal children is the *Care and Protection of Children Act 2007 (the Act)*. This review notes the significant amendments, commencing in March 2020, to the Act. The amendments were based on the government's reform direction and recommendations of the Northern Territory Royal Commission into the Protection and Detention of Children in the Northern Territory, and largely supported by the Aboriginal organisations involved in consultation processes.² Territory Families reported delivering information sessions in February 2020 on the amendments, the ATSICPP and their implementation. While this review notes these legislative changes, no data on their impact was available for the current review period (1 May 2019 to 30 April 2020) and will be considered in the 2021 review. The Economic Policy Scrutiny Committee recommended a review of compliance with the ATSICPP one year after the amendments commenced.³ The review will be critically important to assess the implementation of the legislation and should draw upon the findings in this review.

This review also outlines a suite of policies, programs, and frameworks that Territory Families has enacted or decided to continue to fund during the reporting period.

The initiatives

Territory Families continued to develop and implement various policies and program reforms. Both the Safe, Thriving and Connected: Generational Change for Children and Families (which aims to address the over-representation of Aboriginal children in the out-of-home care and youth justice systems) and the Signs of Safety model for child protection are underway. Two new child and family centres opened in Katherine and Tennant Creek, with a third due to open in August 2020 and eight other sites identified. These child and family centres are intended to considerably increase supports available to children at risk of entering care, as well as their families.

Other promising developments include the adoption and funding of the foster and kinship care model, Children Safe, Family Together, developed by Tangentyere Council Aboriginal Corporation (Tangentyere Council) in consultation with several ACCOs. The new model has four phases, which represent a cycle of care, and provides a basis for partnerships with Aboriginal organisations to increase the number of children in care being supported by kin. This model has informed funding from 1 January 2020 to 30 June 2021 under Round 2 of

² See also SNAICC - National Voice for our Children (2019). *Submission to the Northern Territory Legislative Assembly's Economic Policy Scrutiny Committee on the Care and Protection of Children Amendment Bill 2019 (NT)*, available at https://parliament.nt.gov.au/_data/assets/pdf_file/0007/688948/Submission-No.-10-National-Voice-for-Our-Children-SNAICC.pdf

³ Economic Policy Scrutiny Committee (2019). *Inquiry into the Care and Protection of Children Amendment Bill 2019*. Legislative Assembly of the Northern Territory, p. 10, available at https://parliament.nt.gov.au/_data/assets/pdf_file/0004/709168/82-19-Final-Report-on-the-Care-and-Protection-of-Children-Amendment-Bill-2019.pdf

Aboriginal Carers Growing Up Aboriginal Children program, with \$2.2 million across six Aboriginal organisations to recruit and support Aboriginal foster and kinship carers. Territory Families has also progressed plans to implement a new accreditation program for OOHC services.

The Children and Families Tripartite Forum continues to provide a regular forum for structured high-level engagement between the Northern Territory and Australian Governments, and the community sector, regarding children and families experiencing vulnerability and child protection issues.⁴ The forum met five times within the review period and negotiations for funding community member participation underway. The Tripartite Forum also oversees the development of a ten-year Generational Strategy for Children and Families, which the Productivity Commission noted has progressed slowly and will take another two years to complete.⁵

However, there remains no dedicated Aboriginal peak body leading the design of policies and services that impact on Aboriginal children and families, nor a dedicated children's commissioner for Aboriginal children and young people that is on equal footing with the principal children's commissioner in the Northern Territory.

A public health emergency in response to COVID-19 was announced in March 2020 in the Northern Territory. Sector leaders indicate that COVID-19 is having a highly disproportionate impact on Aboriginal children and families. This included:

- the mental health of children in care and their connection to culture
- additional challenges facing foster and kinship carers
- restrictions on contact between children in care and family
- delays and adverse impacts on the reunification process
- restrictions on physically accessing court and legal services for child protection proceedings
- reductions and modifications to service delivery for children and families
- decreased availability of short-term and crisis housing
- food security and increasing costs
- suitability of conditions in detention for young people.

The lack of clear and consistent messaging on COVID-19 in language and potential impact of restrictions on family violence was also noted as particularly concerning.

Announced in March 2020, the *Everyone Together Aboriginal Affairs Strategy 2019-2029* is a whole-of-government framework that aims "to reshape how [government] works with Aboriginal Territorians to support community aspirations and achieve better outcomes".⁶ Several measures under the strategy's focus area of Children and Families are particularly relevant to the ATSI CPP.⁷ The strategy will be revisited upon finalisation of the refreshed Closing the Gap framework, which is outside of the current review period.

⁴ As of September 2020, communiqués from each of the meetings are available at <https://rmo.nt.gov.au/updates>

⁵ Productivity Commission (2020) *Expenditure on Children in the Northern Territory - Productivity Commission Study Report*, p. 125, available at <https://www.pc.gov.au/inquiries/completed/nt-children/report>

⁶ Northern Territory Government (2020). *Everyone Together - Aboriginal Affairs Strategy 2019-2029*, Office of Aboriginal Affairs, p. 4, available at https://dcm.nt.gov.au/data/assets/pdf_file/0010/799219/everyone-together-aa-strategy.pdf

⁷ These measures include numbers of Aboriginal children in OOHC, placements of Aboriginal children with kinship carers or Aboriginal carers, family reunifications, and the number of child and family centres. See Northern Territory Government

Territory Families also announced a three-phase reform to the out of home care system in May 2019.⁸ The phases include:

- **Phase 1 (June 2019 to December 2019):** establish a new OOHC contract model, service mix and therapeutic approach
- **Phase 2 (January 2020 to December 2020):** embed Aboriginal-led service delivery and building service capacity
- **Phase 3 (January 2021 to December 2021):** establish a strong OOHC system.

This reform responds to recommendations from the Royal Commission into the Protection and Detention of Children in the Northern Territory and the national Royal Commission into Institutional Responses to Child Sexual Abuse. An additional \$20 million budget allocation for the OOHC model and service delivery was announced, bringing the 2019-20 child protection budget to \$128.4 million.⁹

The Productivity Commission report and sector-wide funding

The Productivity Commission's study report on *Expenditure on Children in the Northern Territory*, released in March 2020, examined Commonwealth and Northern Territory Government funding decisions and arrangements relating to children and families.¹⁰ Over the financial year 2018-19, total expenditure by the Northern Territory Government was \$313 million, with \$267 million allocated towards Territory Families: \$260 million, or 97%, was expended in Territory Families area of Children and Families. The Commonwealth Government expenditure in the Northern Territory was reported as \$225 million, distributed across a range of government portfolios and programs.¹¹

The report described the reviewed funding arrangements as “far from ideal” and “a fragmented system ... failing to best address the needs of children and families”.¹² The report identified several issues, including:

- a siloed and fragmented service system, with overlap and complexity of funding (but little evidence of over servicing or service duplication)
- the range of Northern Territory Government plans and frameworks relevant to children and families, with overlap and limited links between plans, policy actions and funding decisions
- limited community consultation and systematic needs assessments to establish levels of need, and the need for feedback on outcomes to communities
- the underutilisation of regional networks to share information and coordinate services.

(2020). *Everyone Together - Aboriginal Affairs Strategy 2019-2029*. Office of Aboriginal Affairs, available at https://dcm.nt.gov.au/_data/assets/pdf_file/0010/799219/everyone-together-aa-strategy.pdf

⁸ Territory Families (2019). *Transforming Out-of-Home Care in the Northern Territory*, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0011/693398/Transforming-Out-of-home-care-in-the-NT.pdf

⁹ Territory Families (2019). *Media Release: Budget 2019: Creating Generational Change and Transforming the Territory's Out of Home Care System*. 16 May 2019, available at <http://newsroom.nt.gov.au/mediaRelease/30028>

¹⁰ Productivity Commission (2020). *Expenditure on Children in the Northern Territory - Productivity Commission Study Report*, available at <https://www.pc.gov.au/inquiries/completed/nt-children/report>

¹¹ Productivity Commission (2010). *Expenditure on Children in the Northern Territory - Productivity Commission Study Report*, p. 5, available at <https://www.pc.gov.au/inquiries/completed/nt-children/report>

¹² Ibid.

Recommendations were grouped in four priority areas, including:

- the need for a formalised and collaborative approach to funding
- a longer-term, collaborative approach to contracting service providers
- better data collection and progress measures, including improved use of community-level data and data harmonisation, supporting continuous service improvement
- resourcing supporting institutions that will support the reform areas, including the Tripartite Forum.

These recommendations were echoed in sector leader feedback for this review. Sector leaders observed that these recommendations provide opportunities for genuine partnerships with ACCOs.

It is difficult to determine the optimal level of funding to address the complex needs of vulnerable families. However, the funding distribution and levels reported across the different initiatives remains well below what is expected of a jurisdiction where the overwhelming majority of children in OOHC are Aboriginal. There must be greater investment in ACCOs to do the work necessary to prevent children from entering care, to ensure culturally connected placements for children who are removed, and to reunify children in OOHC with their birth families as soon as possible.

Community voices

In addition to the above feedback, sector leaders report some encouraging preventative approaches to child protection, including:

- ongoing support of the Families and Children Enquiry and Support (FACES) service
- increasing opportunities for co-design
- implementation of Signs of Safety
- increasing resources for place-based staff in remote communities
- increasing funding and efforts to increase the recruitment and support of kinship carers.

However, several general areas requiring improvement were identified, including:

- improving communication and published, public data on service delivery implementation and outcomes
- addressing funding delays
- increasing family support investment in family support services that are external to the statutory system
- adequately resourcing capacity-building needs of services and a public health model
- improving consistency in approaches to the co-design of services.

What the data says

Data indicates that Aboriginal children continued to be over-represented in the child protection system. Key relevant data for the reporting period includes:

- ninety per cent of children in OOHC in the Northern Territory are Aboriginal. Aboriginal children are 12.2 times more likely to be placed in OOHC than a non-indigenous child. This is an increase from last year's rate (11.5) and the Baseline Analysis (11.1), and remains higher than the Australian average (10.6).¹³
- nationally published RoGS data continues to highlight that the Northern Territory has the lowest rate of removal of Aboriginal children per population, and in 2019-20 this rate continued to reduce
- Territory Families reporting the percentage of Aboriginal children placed with Aboriginal carers dropped from 41.2% of 967 Aboriginal children in May 2019 to 37.7% of 904 Aboriginal children in April 2020. The AIHW reported 36.9% of Aboriginal children were placed with kin or Aboriginal carers, which is also lower than the national 2019 average (63.6%).¹⁴
- Territory Families reporting that 87% of Aboriginal children and young people in care have a cultural support plan. However, sector leaders voiced concerns that cultural components of plans are not consistently or adequately addressed.
- in 2018-2019, 75 Aboriginal children in the Northern Territory were reunified compared with 480 children who were not reunified, showing a low reunification rate. While recent data has not yet been published by AIHW, Territory Families reported that during the reporting period 166 Aboriginal children were reunited with family. The number of Aboriginal children who were not reunified is unknown.
- there have been no adoptions of Aboriginal children
- in 2018-19, the Northern Territory spent 24.8% of child protection funding on family support and intensive family support services, significantly higher than the national average of 15.9% and the second highest in Australia. This percentage also incorporates a high internal spend on family support functions that are part of the statutory intervention system.¹⁵
- just 5.74% of the total expenditure on services delivered to children went to ACCOs in the same period.¹⁶

¹³ 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/>

¹⁴ Australian Government (2020). *Report on Government Services – Chapter 16 – Child Protection (SCRGSP)*, Steering Committee for the Review of Government Service Provision, Productivity Commission, Table 16A.21, available at <https://www.pc.gov.au/research/ongoing/report-on-government-services>

¹⁵ 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/>

¹⁶ Australian Government (2020). *Report on Government Services*. Steering Committee for the Review of Government Service Provision 2020. Productivity Commission, Canberra, available at <https://www.pc.gov.au/research/ongoing/report-on-government-services>

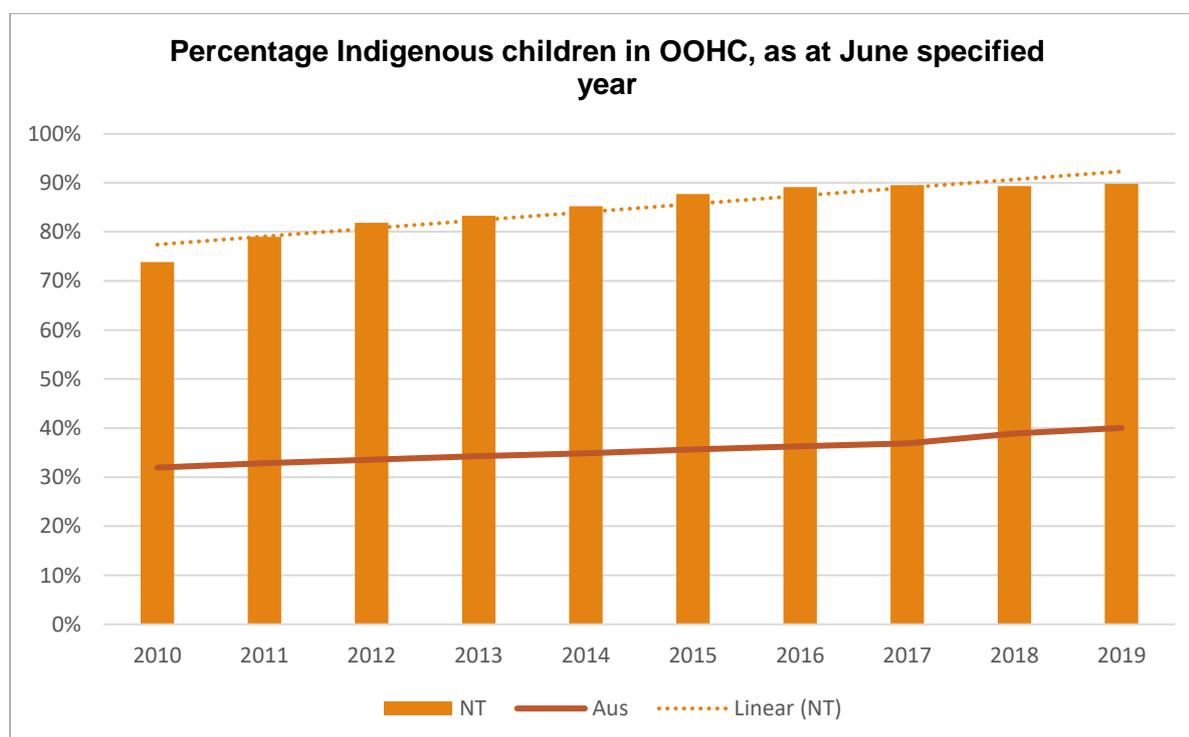
Prevention

The Prevention element of the ATSI CPP 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. Initiatives to prevent children entering OOHC cut across broad areas of government responsibility, including housing, education, health, and culture. However, this review focuses on the activities of Territory Families, while noting that true prevention can only be achieved with a whole-of-government approach.

There is clear work to be done. As at 30 April 2020, Territory Families reported 651 open family support cases with Aboriginal families, or 87.7% of all open cases. Of children commencing family support services between May 2019 and April 2020, 79.3% were Aboriginal children. Additional data is needed to identify whether these services are being accessed in a preventative (as opposed to crisis management or reactive) capacity.

Figures 1a and 1b show the significant increase of the percentage of Aboriginal children in OOHC from 74% in 2010 to 90% in 2019 (**Figure 1a**) and a devastating increase in rate ratio of over-representation in care from 4.3 in 2010 to 12.2 in 2019 (see **Figure 1b**).¹⁷ In the Northern Territory, Aboriginal children are 12.2 times more likely to be placed in OOHC than a non-Indigenous child. This is higher than the 2019 Australian average (10.6) and third-highest rate ratio in Australia.¹⁸ The rate ratio's compare the rate of Aboriginal children coming into care proportionate to the population with non-indigenous children. Discussion of over-representation is detailed further in *The Family Matters Report 2020*.

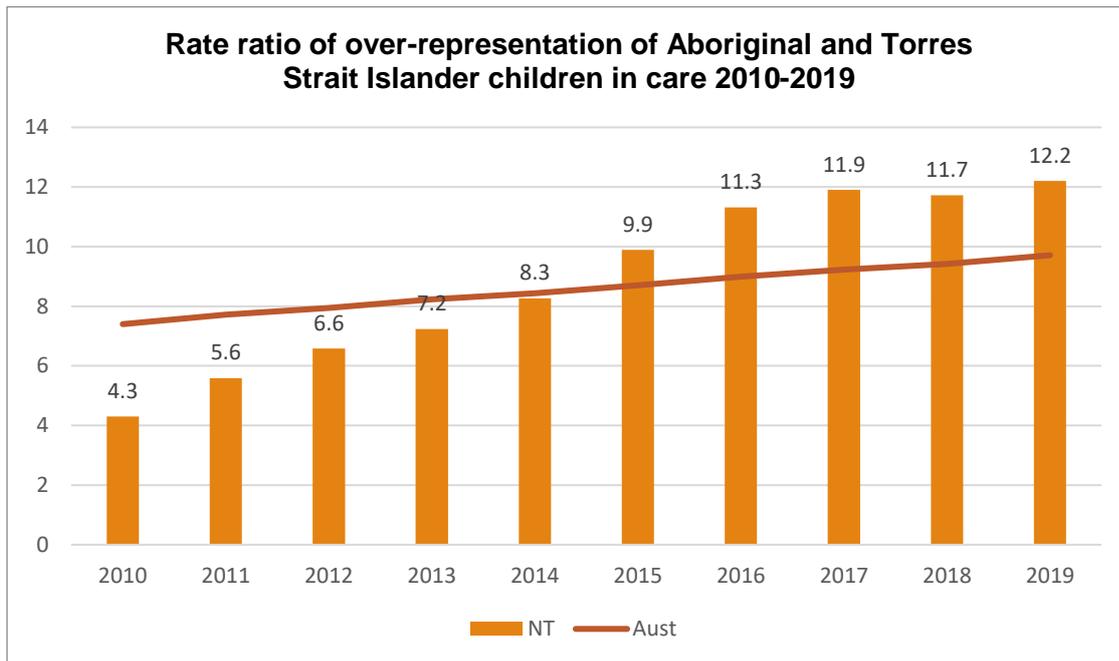
Figure 1a: Percentage Indigenous children in OOHC, as at June specified year



¹⁷ 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/>

¹⁸ 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/>

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



Key initiatives

Legislative amendments to the Act

March 2020 amendments relevant to the ATSI CPP's Prevention element¹⁹ include:

- recognising the primary role of parents and family in the care and wellbeing of a child
- introducing a higher standard to be met before a child may be removed from their family
- recognising the government's role in providing or facilitating the provision of early intervention and prevention services
- requiring the least intrusive intervention in a child's life that is in line with their best interests.

Changes also require the agency's early intervention and prevention services to:

- be preventative, aiming to strengthen and supporting families
- engage meaningfully with families, using interpreters if necessary
- involve holistic assessments of children and families
- be culturally responsive.

¹⁹ See, in particular, Northern Territory Government (2007). *Care and Protection of Children Act 2007 (NT)*, sections 8 and 42, available at <https://legislation.nt.gov.au/en/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007>

Policies, frameworks and programs

During the reporting period, Territory Families commenced or continued a range of initiatives in support of prevention. See also **Figure 2** and **Figure 3** for further expenditure detail.

Child and family centres

The 2019 ATSI CPP implementation review noted a \$11.4 million commitment by Territory Families to establish 11 new child and family centres (CFCs). In the reporting period, two new CFCs opened in Katherine and Tennant Creek.

The Katherine CFC is operated by Kalano Community Association and Tennant Creek CFC is operated by Julalikari Aboriginal Corporation. The centres aim to:

- improve a range of wellbeing outcomes for children and families experiencing vulnerability by supporting them to access services to address their needs
- address any child safety issues within families to prevent a need for further involvement with the statutory child protection system.

A third is due to open in Kalkarindji in August 2020. Work is underway to establish centres in Darwin, Gapuwiyak, Wadeye, Borroloola, Alice Springs, Wurrumiyanga, Ali Curung, and Kintore.

Signs of Safety child protection practice framework and Safe and Together model

In July 2019 Territory Families implemented a child protection model called Signs of Safety which aims to empower parents and families' engagement and decision-making. It also intends to develop caseworkers' capacity-building skills. Interim feedback to Territory Families suggests Signs of Safety enabled better family participation and that more children are able to remain in family care. A survey of 175 parents captured their experiences: 58% reported "workers do what they will say they do", 61% agreed "workers listened to them" and 74% reported "they think workers care about solving their problems".²⁰ Territory Families reported the framework improved safety planning processes and collaboration between families, Territory Families, and legal representation. The agency has now invited non-government partner agencies to participate in training.

The Safe and Together model aims to create better outcomes for children and families exposed to domestic and family violence. Territory Families reported engaging additional staff training to incorporate the model into its practice.

Other preventative services

Territory Families reported a priority of establishing a 'dual pathway' service model for families to receive support outside of the statutory system. This includes continuing the service provided by the Families and Children Enquiry and Support (FACES) support line. During the review period, it received 1,367 calls, with 288 clients referred on to family support services.

²⁰ Northern Territory Government (2019). *Territory Families Half Year Report - 1 July to 31 December 2019*, p. 15, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0007/826063/Strat-Plan-6-Month-Review-2020.pdf

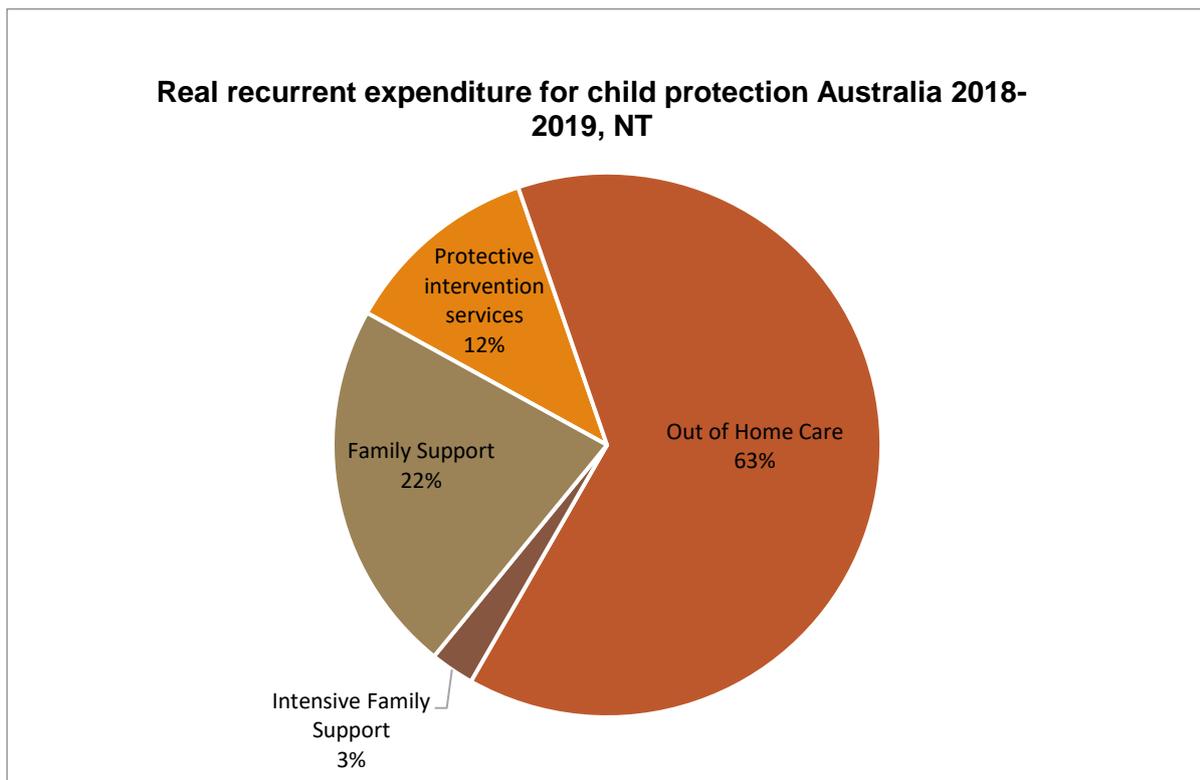
Aboriginal Medical Services Alliance Northern Territory (AMSANT) completed the co-design of a comprehensive early intervention family support service to be delivered by Aboriginal health services or ACCOs. Trial services were planned for the review period did not occur.²¹

Territory Families secured \$19.08 million from the Commonwealth over July 2020-June 2022 to continue its Remote Family Support and Remote Women's Safe House services. These will employ 96 staff in 24 remote communities, including at least 69 designated positions for local Aboriginal people. Additional family support services are available via caseworker support through the Strengthening Families and Intensive Family Preservation Service program (IFPS). The IFPS has five main service centres of Darwin, Nhulunbuy, Katherine, Tennant Creek, and Alice Springs.

Among other allocations relevant to prevention, the 2019-20 budget for domestic and family violence increased from \$25.7 million to \$29.3 million.

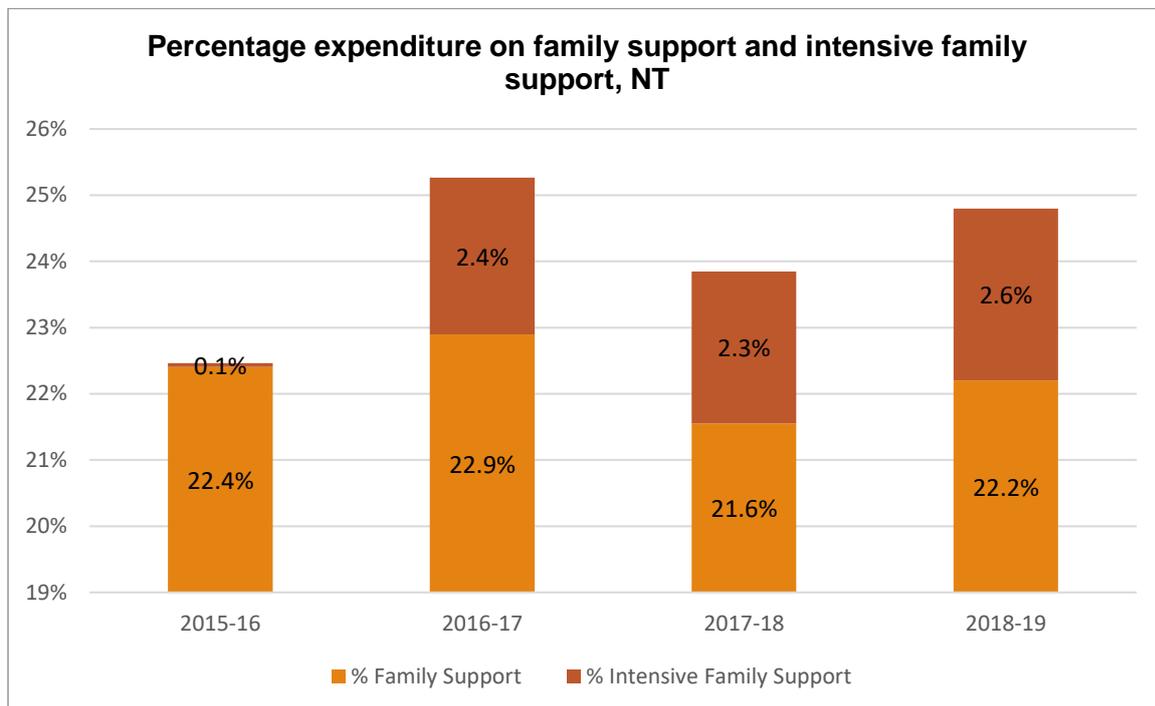
The Productivity Commission reported on Northern Territory and Commonwealth expenditure across services for family and children in the Northern Territory and recommended that funding reflect a 'public health model' (see Overview). **Figure 2** indicates that the government's expenditure on family support and intensive family support remained at 24.8% of the overall real expenditure on child protection in 2018-19. **Figure 3** indicates that the expenditure on family support and intensive family support has not significantly changed over the past years, but has increased slightly from 23.84% to 24.8% in 2018-19.

Figure 2: Real recurrent expenditure for child protection Australia 2018-2019, Northern Territory



²¹ See 'Community voices' section below.

Figure 3: Percentage expenditure on family support and intensive family support, Northern Territory



This percentage also incorporates a high internal spend on family support functions that are part of the statutory intervention system. The Northern Territory Government reported that \$8.9 million is spent on external support services which sits alongside approximately \$8 million invested by the Australian Government on intensive family support services in the Northern Territory annually.²² This suggests that the remaining 68% of the \$52.2 million spent on family support and intensive family support was invested internally in the statutory system. This analysis aligns with the views of Northern Territory community stakeholders, many of whom have expressed concern at the lack of visible family support services on the ground.²³

Discussion of government investment and distribution is detailed further in *The Family Matters Report 2020*.²⁴

Online directory to link families with services

In partnership with the Department of Territory Families, Housing and Communities (TFHC), the Northern Territory Council of Social Services (NTCOSS) received funding for the purpose of developing an online directory to support and inform the sector in delivering and linking families to services. NTCOSS consulted over 31 NGOs in the course of developing the community directory.

²² Productivity Commission (2020). *Expenditure on Children in the Northern Territory - Productivity Commission Study Report*, available at <https://www.pc.gov.au/inquiries/completed/nt-children/report>

²³ 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/>

²⁴ Ibid.

The NTCOSS community directory was soft launched on 16 December 2020, became live on Thursday 17 December 2020, and has since been accessed by 1,736 unique users.

Community voices

Sector leaders provided mixed feedback about the effectiveness of initiatives supporting prevention, but welcomed the preventative intention across family violence, youth justice, and child protection. Sector leaders referred to some newly implemented (Signs of Safety and Safe and Together) and existing programs (Men's Behaviour Change and Back on Track) as particular examples.

Several concerns were reported, including:

- the lack of data and detail on the implementation and impact of these programs
- slow referrals to Aboriginal carer service programs under the Safe and Together model
- the competitive tender process is likely to limit co-design of the Darwin Child and Family Centre, and the service model remains unclear
- when a child is removed, IFPS is reduced or ceases. This withdrawal of support is at a critical point of intervention. Parents must navigate the system, with under-resourced legal services able to fill only some of that gap.
- funding is generally being concentrated on tertiary services, while sector leaders would prefer a significant funding shift to preventative, multidisciplinary services and a public health model, in line with recommendations from the Productivity Commission and Royal Commission. Although \$20.87 million was allocated over 2019-20 for family support services overall, this includes only a slight increase in funding for prevention activities. Disturbingly, delays in funding prevented AMSANT from trialling its early intervention services.
- alcohol management measures are currently inadequate, with alcohol-related harm remaining high.

Sector leaders also noted COVID-19 directly reduced service accessibility and delivery from March 2019 onwards. Public health requirements exacerbated existing housing shortages, with short-term housing options closed.

Community recommendations to strengthen initiatives included:

- recognising that working respectfully and openly with parents and kinship families takes time and ongoing communication
- supporting understanding of child protection laws and the development of holistic prevention plans for families with children at risk of entering OOHC by recruiting Aboriginal workers who focus primarily on prevention and early intervention
- increasing and formalising partnerships and networks between organisations and Territory Families working in kinship care
- organising kinship care service provider meetings to build awareness of services available.

Conclusion

Despite these efforts, 90% of children in OOHC in the Northern Territory are Aboriginal. Aboriginal children are 12.2 times more likely to be placed in OOHC than a non-Indigenous

child. This is an increase from last year's rate (11.5) and the Baseline Analysis (11.1), and remains higher than the Australian average (10.6).²⁵

Given this, it is critical that Territory Families continues to support and consistently implement policy and legislative reform to the OOHC system, with its stated focus on prevention and supporting children and families. The legislative amendments to the Act promote some aspects of the ATSI CPP best practice principles.²⁶ However, several best practice principles are not adopted. The amendments do not incorporate minimum requirements for the provision of family preservation and support, recognising the role of ACCOs to provide family support services, or requiring referrals to family support services upon notification to a child protection agency. Additional concerns were detailed in sector leader feedback during the Bill's consultation process.²⁷

On a positive note, the newly built CFCs reflect the prevention aims. Despite achieving operational management by community and whole-of-family support services, features which align with the ATSI CPP's prevention aims, no data about the impact of these centres is available for this review period. The feedback received to date about Signs of Safety appears positive overall. Disappointingly though, no update on Aboriginal staff delivery of the framework – an intent noted in the 2019 ATSI CPP implementation review – was provided (see Partnership).

Overall, more data on the implementation and impact of the above programs, services, and frameworks is needed to enable consideration of whether they effect ATSI CPP's prevention aims. Positive signs are evinced by reform intent, service creation, and increased funding. However, without data it remains unclear whether prevention actions articulated by the ATSI CPP are realised.

No information on the update of the design and uptake of the NTCOSS social services directory, noted in the 2019 implementation review, has been provided.

Partnership

The Partnership element under the ATSI CPP aims to ensure genuine involvement by Aboriginal and Torres Strait Islander people in all stages of decisions made about children and their families' welfare.

During the reporting period, Territory Families has endeavoured to implement the Partnership principle by:

- reflecting partnership principles in legislation and policy
- funding ongoing ACCO advisory and capacity-building partnerships with Territory Families.

In 2018-19, the Northern Territory spent 24.8% of child protection funding on Family Support (22.2%) and Intensive Family Support services (2.6%), significantly higher than the national

²⁵ 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/>

²⁶ Data received about the impact of the amendments will be considered in the 2021 review.

²⁷ Northern Territory Government (2019). *Care and Protection of Children Amendment Bill 2019*. Legislative Assembly of the Northern Territory, available at <https://parliament.nt.gov.au/committees/previous/EPSC/82-2019>

average of 15.9%, and the second highest in Australia. However, 5.74% of the total expenditure on services delivered to children went to ACCOs in the same period.²⁸ This is significantly less than the percentage of children in care in the Northern Territory that are Aboriginal or Torres Strait Islander (90%). This indicates that Aboriginal organisations continue to have limited opportunities to provide the culturally safe supports needed to prevent Aboriginal children from entering care.

Legislative amendments to the Act

The March 2020 legislative reforms to the Act are promising shifts towards genuine partnership with Aboriginal people because they:

- recognise an Aboriginal child's right to enjoy their culture and tradition and right to maintain contact with their family, Country and language
- introduce a higher standard to be met before a child may be removed from their family
- require the least intrusive intervention in a child's life that is in line with their best interests.

Policies, frameworks and partnerships

During the reporting period, the whole-of-government *Everyone Together Aboriginal Affairs Strategy 2019-2029* was announced. The strategy states its three guiding principles for working with Aboriginal people, communities, and ACCOs are healing, engagement, and respect. It includes a commitment to local decision-making and partnerships, identifying the aims of:

- transitioning services and programs to community control
- investing in community governance
- increased partnering with ACCOs.

The strategy adopts a regional approach, recognising unique, tailored and community-led solutions are required for long term and sustainable change in the Territory's five regions.²⁹

Specific partnerships

Territory Families continues to fund SNAICC and Aboriginal Peak Organisations Northern Territory (APONT) to provide advice on legislative, policy, and practice reforms pertaining to Aboriginal children and families in the child protection context. This includes planning and implementing the Children Safe, Family Together (see also Prevention and Placement). In May 2019, policy and practice leaders from Territory Families attended SNAICC workshops on the implementation of the ATSICPP.

The Children and Families Tripartite Forum continues to facilitate engagement between the Northern Territory and Australian governments, and the community sector, regarding child and family protection issues. Numerous NGO representatives sit on the forum.

The 2019 implementation review reported the establishment of the Mikan Community Reference Group (Mikan) by Elders in East Arnhem Land. Mikan is a localised model of

²⁸ Table 16A.7 (SCRGSP, 2020)

²⁹ Northern Territory Government (2020) . *Everyone together Aboriginal Affairs Strategy 2019-2029*. Office of Aboriginal Affairs, p. 7, available at https://dcm.nt.gov.au/_data/assets/pdf_file/0010/799219/everyone-together-aa-strategy.pdf

early intervention. In agreement with Mikan members, Territory Families has engaged Charles Darwin University to review Mikan's operation. The purposes include informing on Mikan's possible future pathways and considering the applicability of the Mikan model across the Northern Territory regions.³⁰

The **Aboriginal Cultural Security Framework** includes a commitment to partnerships with ACCOs. The 2019 ASTICPP implementation review noted the framework commenced in April 2019. An Aboriginal Cultural Security Advisory Committee was established in October 2019. It meets quarterly to contribute to Territory Families' strategic direction, and to guide and monitor the framework.

Territory Families reported facilitating **child safety coordination groups**. These comprise of government, non-government and community leader members across the Northern Territory. The focus of meetings is to discuss child safety and wellbeing concerns, and coordinate knowledge and timely responses to identified children and families. Meetings occurred in Ntaria, Papunya, Ti Tree, Willowra, and Harts Range in the Southern Region; and Wadeye, Maningrida, and Wurramiyanga in the Northern Region.

The **Aboriginal Carers Growing Up Aboriginal Children grants program**, which was ACCO-designed and now ACCO-delivered, supports the placement of Aboriginal children with Aboriginal kinship and foster carers. During the review period, the program expanded funding and locations (see Placement). Notably, while ACCO involvement has been increased, case management control and decision-making remains the responsibility of Territory Families, rather than ACCOs. Promisingly, as part of the expansion of Aboriginal family and kinship carer services, TFHC has committed to quarterly Community of Practice (CoP) forums that include all Aboriginal family and kinship carer service providers. The CoP brings together all Aboriginal family and kinship carer service providers and key regional TFHC staff to discuss the Aboriginal family and kinship carer service model, implementation progress, and individual cases – all with a focus on continuous improvement, sharing successes and lessons learnt, and identifying opportunities to work together and develop the Aboriginal family and kinship carer services system. Work on developing an Aboriginal carer assessment tool is a key action being progressed through the Aboriginal family and kinship carer service providers and CoP.

Territory Families reported **workforce and training initiatives** to improve its recruitment and retention of Aboriginal staff, including launching the **Aboriginal Workforce Plan** in March 2020. Territory Families reported that as of May 2020, 21% of the Territory Families workforce is Aboriginal, representing the highest rate of Aboriginal employment in the NT government and growth in percentage Aboriginal employees in middle (11-13%) and senior management (4-9%) roles. Mandatory pre-service training of child protection practitioners, focusing on the care placement under the Act and the ATSI CPP, is also in place.

Community voices

Sector leaders affirmed the positive developments in supporting partnerships, but described mixed successes in implementing genuine partnership approaches and emphasised the importance of consistent, sector-wide communication about partnership activities and outcomes. Annual reviews of Aboriginal carer service partnership models were proposed.

³⁰ Northern Territory Government (2019). *Territory Families Half Year Report - 1 July to 31 December 2019*, p. 15, available at https://territoryfamilies.nt.gov.au/_data/assets/pdf_file/0007/826063/Strat-Plan-6-Month-Review-2020.pdf

The transfer of case management control and responsibility from Territory Families to ACCOs must be accelerated. This can be bolstered by ongoing funding for ACCO advisory and capacity-building partnerships, as well as support for models that build partnerships at a case management level (such as bicultural pairs of social workers). These types of long-term capacity building will support ACCOs as first contact agencies.

They noted the potential for the Tripartite Forum to have a role in addressing recommendations made by the Productivity Commission, and recommended that networks relating to child protection and care continue to be fostered (see Overview).

Despite the positive intent of the Signs of Safety program (see Prevention), it is unclear what outcomes the supports for families have had to date.

Leaders highlighted the family group conferencing model: its slow progress in development and implementation, and a lack of partnership and co-design in development. They emphasised the ongoing need for significant investment in the capacity building of ACCOs and early intervention – beyond the establishment of the initial child and family centres.

Sector leaders acknowledged that some partnership activities may have been interrupted by the COVID-19 pandemic.

Conclusion

Partnership activities are ongoing and have significant potential to meet the aims of this element. However, critical representation of Aboriginal children, families, and organisations would be improved with a dedicated commissioner for Aboriginal children and young people with the requisite powers to conduct investigations into systemic issues impacting Aboriginal children in the Northern Territory. There remains no dedicated Aboriginal peak body that could be involved in the design of policies and services impacting on Aboriginal children and families.

Funding of genuine partnership approaches and ACCOs remains too low and clearly disproportionate to the percentage of Aboriginal children in OOHC.

Territory Families reported the ongoing implementation of the Aboriginal Cultural Security Framework and the Aboriginal Practice Leadership Framework for the Signs of Safety (see above, and Prevention). The 2019 implementation review noted rollout of the Remote Service Delivery Framework which provided for the transfer of agency staff to remote communities. The framework intends to support development of partnerships with Aboriginal communities and to take a place-based approach to addressing child protection matters in partnership with community. However, without reporting data, progress of these processes and frameworks remain unclear.

The 2019 implementation review reported some progress towards partnerships and agreements with ACCOs under Territory Families' 2018 Local Decision Making plan.³¹ However, it remains unclear how many agreements have been entered into and progressed during this Review period. Positive steps towards genuine partnership approaches, such as the ATSICPP training of Territory Families staff, have occurred. However, although ACCO involvement in the system has increased, case management control and decision-making

³¹ Northern Territory Government (2020). 'Local Decision Making', available at <https://ldm.nt.gov.au/information>

remains the responsibility of Territory Families, rather than with ACCOs.

Placement

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

During the reporting period, Territory Families has endeavoured to implement the Placement principle by:

- supporting the commencement of the Act's amendments
- adoption and funding of the Children Safe, Family Together model
- funding for ACCOs to recruit and support Aboriginal carers.

Legislative amendments

The March 2020 amendments are significant in relation to the ATSICPP Placement element. Overall, the amendments add express requirements to support a child's maintenance, during interventions, of connection to their family, community, Country, and culture. This occurs through:

- introducing an important higher standard to be met before a child may be removed from family
- introducing new considerations which require protection of the child's connection and relationships with family, kin, and culture
- requiring placement decisions to be the least intrusive possible and consistent with protection of the child's connection and relationships.

Policies, frameworks and programs

The OOHC reforms include a stated focus on family-based placements, keeping siblings together whenever possible and placement stability.

Expansion of Aboriginal family and kinship carer services

In July 2019, Territory Families adopted and committed funding of the foster and kinship care model – Children Safe, Family Together – which was developed by Tangentyere Council Aboriginal Corporation (Tangentyere Council) in consultation with a number of ACCOs. A key focus of this model is increasing Aboriginal self-determination and community control. Another is ensuring families and communities are involved in key decision-making processes about the care and protection of their children. This model has informed funding decisions for the period from 1 January 2020 to 30 June 2021 under Round 2 of the Aboriginal Carers Growing Up Aboriginal Children program. Territory Families committed \$2.2 million for the following six Aboriginal organisations to recruit and support Aboriginal foster and kinship carers:

- Yalu Aboriginal Corporation
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council
- NT Stolen Generations Aboriginal Corporation
- Kalano Community Association Incorporated
- Tangentyere Council Aboriginal Corporation
- Larrakia Nation Aboriginal Corporation.

Signs of Safety practice and kinship mapping

Territory Families reports the kinship mapping initiatives, part of the Signs of Safety program (see Prevention), are assisting with finding kin carers where a child has been removed from their parents. The agency also reported providing additional resources to support frontline implementation of the ATSICPP.

Key data

Territory Families reports that, at 30 April 2020, 341 Aboriginal children, or 37.7% of all Aboriginal children in care, have been placed with Aboriginal carers in accordance with the ATSICPP. This is a decrease of 3.43% from May 2019.

Data on the percentage of Indigenous children placed with kin or Aboriginal and Torres Strait Islander carers indicates a positive trend from 33.3% to 36.9% over 2018-2019, but remains significantly lower than the national average (63.6%) and the lowest in the country (**Figure 4**).³²

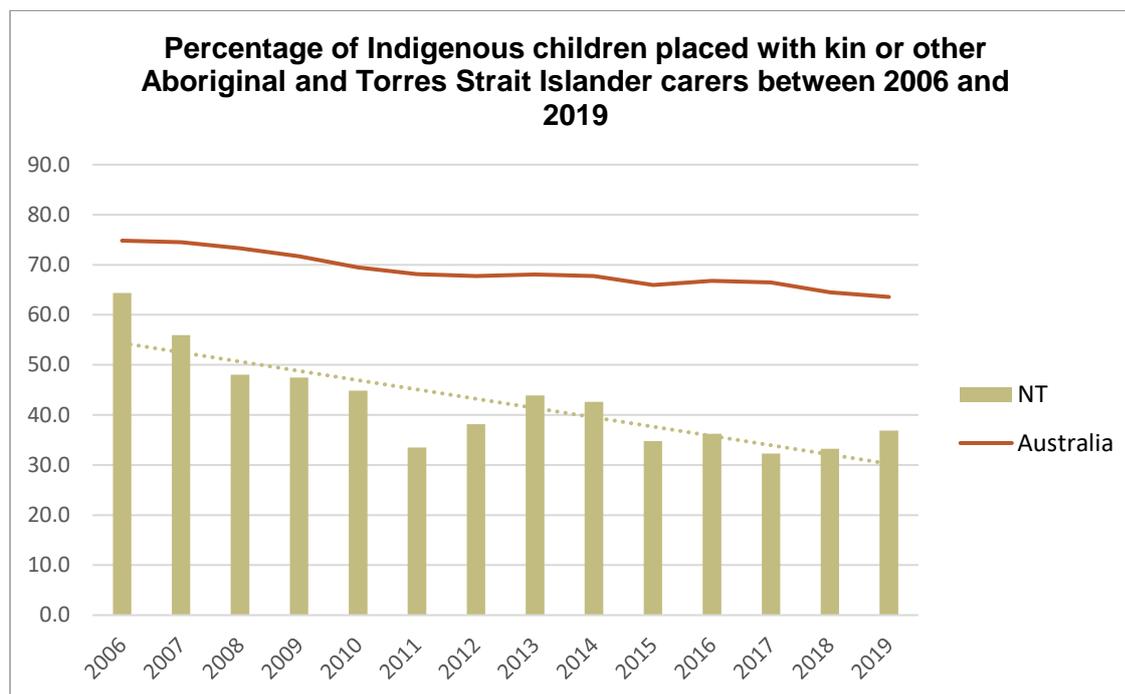
Figure 4 indicates that the percentage of Indigenous children placed with kin or other Aboriginal and Torres Strait Islander carers has decreased since 2006, where the percentage reported was 64.3%.

Territory Families reported that during the current review period, there were 291 registered kinship carers and 305 foster carers. Kinship carers represented 54% of commencing foster places of care, while in 2018-19, kinship carers represented 61% of commencing foster places of care. However, with the lowest rates of placement of Aboriginal children with kin or Aboriginal and Torres Strait Islander carers in Australia, it is unclear whether this has translated into practice.

Further, the Northern Territory is the only jurisdiction which does not report placements of Aboriginal children with non-indigenous relative/kin. Consequently, non-indigenous family are included in the 'Aboriginal and Torres Strait Islander relative/kin' category. As mentioned previously in the overview, this is highly problematic, inaccurate, and impedes the ability to measure the implementation of the Placement element of the principle which specifies that Aboriginal and Torres Strait Islander kin should be prioritised.

³² Table 16A.20, Table 16A.21 (SCRGSP, 2019, 2020)

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



Community voices

Sector leaders note the legislative, funding, and program implementation developments are positive and the anecdotal feedback encouraging. The funding for ACCOs to undertake early intervention kinship mapping to support children staying with Aboriginal kinship and foster carers was reported as working well in terms of progressing early kinship enquiries, with the potential for it to be expanded where needed.

They reported several concerns, including the need for Territory Families to continue working to reduce the estimated timeframe of to six months for kinship assessments. Sector leaders noted that this lengthy period creates attachment issues for the children and their carer.

Improving the transparency and communication of Territory Family placement decisions, including decisions regarding the suitability of a family member for placement, was also identified as a priority.

Leaders highlighted the importance of:

- ongoing and intensive training on the implementation of the ATSI CPP for all caseworkers
- improving consistency of communication from Territory Families, including provision of assessment outcomes and rationale for any assessment applications submitted by ACCOs
- where non-compliance with a plan under Signs of Safety occurs, ensuring that Territory Families first seek to identify why the plan did not work and strengthen the plan. For example, this could be bolstered with seeking short-term court directions to strengthen the plan and preserve family-based placements. Concerns were raised that non-compliance with safety plans often leads to

Territory Families seeking orders to remove a child without first attempting to address and strengthen the safety plan.

- where immediate kinship placements are not possible, immediate referrals should be made to an Aboriginal carer services program. This will assist with supporting the immediate commencement of family finding.
- ensuring all tiers of placement are exhausted before placement with non-Aboriginal carers occurs. This should be strengthened further in legislation.

Conclusion

Data specific to the initiatives described under kinship care has not yet been released. However, despite positive legislative reform and actions to apply community-designed kinship care initiatives, Northern Territory has the third-lowest rate of placement with Aboriginal carers in Australia.

Participation

The Participation element aims to ensure Aboriginal people are enabled, empowered, and supported to participate in the decisions that affect them, including by any service professionals involved.

During the reporting period, Territory Families has endeavoured to implement the participation element through:

- supporting the commencement of the Act's amendments, which strengthen child and family participation
- implementing training and workforce initiatives
- ongoing strategies to support children's engagement and participation.

Legislative amendments

The March 2020 amendments bolster participation by family in the child protection and decision-making process by:

- encouraging the participation of parents, family, children, and cultural representatives in care planning
- including best interest principles that include the right to cultural and family connection
- nominating an Aboriginal child as someone who can identify appropriate people to be part of decision-making
- requiring the court to make decisions that are appropriate but the least intrusive possible
- requiring care plans to be provided with applications to the court and before protection orders are made
- requiring care plans to be written in clear and plain language and to include the cultural needs of the child, actions to meet these needs, required actions for the care manager, and what is required for reunification
- requiring orders to be served in person, and to be explained in the preferred language of the person, or so the person understands

- enabling the court to make supervision orders requiring both parents and Territory Families to take particular actions.

Additional amendments include requiring transition to independence planning for all children over 15 years, until necessary or up to age 25. Placements are to be maintained for a young person turning 18 while they are attending education or training.

Policies, frameworks and programs

The agency's *Strategic Plan Refresh (2017-20)* states the importance of listening to children in OOHC. Territory Families also reports enacting initiatives, including using software (Viewpoint) and an ongoing partnership with the CREATE Foundation to assist with capturing the voices of children and young people.

Interim feedback to Territory Families suggests the Signs of Safety program has enabled better family participation and more children are able to remain in family care (see Prevention). However, it is unclear what outcomes the supports for families have had to date.

Community voices

Sector leaders noted the important and positive inclusion of legislative amendments strengthening the participation of families and children in care planning. Leaders identified that the Signs of Safety program's training and competency initiatives could potentially improve family participation (see Prevention). They also noted the need to consistently apply the ATSICPP in a way that maintains the agency of Aboriginal parents and supports reunification. Sector leaders emphasised the importance of ACCOs taking the lead in family-led decision-making processes, as this will best support families and build positive relationships with ACCOs.

The need for improved communication from Territory Families to sector leaders, regarding outcome measures and performance, was also noted. For example, the 2019 review reported Territory Families funded PWC Indigenous Consulting Group to develop a family group conferencing (FGC) model. Amendment to the Act and regulations relating to family group conferencing were specific recommendations of the Royal Commission.³³ The Tripartite Forum discussed the model's implementation during this review period. However, sector leaders note that the status, progress, and implementation of this work remain unclear.

Other specific concerns included:

- whether the Act's intended family participation outcomes may be weakened by the continuing absence a legal requirement for mechanisms (such as FGC) to support family-led decision-making. Sector leaders emphasised their view that a legislative requirement for family group conferencing with extended family is critical to compliance with the ATSICPP.
- cultural competency is not consistently demonstrated by Territory Families caseworkers, including limited awareness of complex systemic and cultural

³³ Royal Commission and Board into the Protection and Detention of Children in the Northern Territory (2019). *Findings and Recommendations*, p. 53, available at <https://www.royalcommission.gov.au/sites/default/files/2019-01/rcnt-royal-commission-nt-findings-and-recommendations.pdf>

issues, or the impact of the Stolen Generations on contemporary care and protection issues

- reports of Territory Families inconsistent use of interpreters with families. Interpreters for video or phone-based proceedings are also difficult to organise for urgent matters.
- the need for adequate funding and resourcing to address barriers to full legal participation. For example, sector leaders noted there is limited access in remote communities to technology for video and phone linkups for court proceedings. This is exacerbated in urgent applications that may relate to removal.
- reports that applications for Temporary Protection Orders are considered in judicial chambers, rather than in court. This practice undermines notifications of parties and fair participation.
- while notification obligations for Protection Orders and Permanent Care Order applications have been increased and support family participation, there are reports that this undermined by the use of provision 138 of the Act to avoid adjournments and seek finalisation, which can impact significantly on family participation.
- while documentation requirements have been reduced under the Act, there are reports of resistance to Territory Families engagement in conferencing or mediation until documentation requirements are met
- the option of mediation under the Family Law pilot in the Local Court provided benefits of potential early resolution, equalising power dynamics, and offering less-formal proceedings for families. However, mediations were limited by the availability of convenors.
- legal representatives are not well equipped to best represent the interests of Aboriginal children.

While the Court may assign legal representation to a child, there is a small pool of child lawyers and Aboriginal child advocates, made smaller by practitioners representing Territory Families in other matters. Some sector leaders reported concerns that a child lawyer has minimal interaction with their client, reducing opportunities to build rapport and support the child's informed engagement with the proceedings. It is also unclear whether there are specialist cultural or child-focused training requirements. COVID-19 led to the delay of specialist professional development training for lawyers, which was to be facilitated by the Darwin Children's Court in response to the Royal Commission.³⁴

Conclusion

It is promising that the Act's amendments employ several best practice principles under the ATSI CPP's Participation element.

However, the absence of a legal requirement for Aboriginal family-led decision-making or Family Group Conferencing remains deeply concerning, as are community reports of inconsistent and inadequate support for child and family participation. These processes should be strengthened by ACCO leadership and governance structures.

³⁴ Royal Commission and Board into the Protection and Detention of Children in the Northern Territory (2019). *Findings and Recommendations*, p. 44, available at <https://www.royalcommission.gov.au/sites/default/files/2019-01/rcnt-royal-commission-nt-findings-and-recommendations.pdf>

Connection

The ATSI CPP'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.

During the reporting period, Territory Families has endeavoured to implement the connection principle by:

- supporting the commencement of the Act's amendments
- quality assurance requirements of service providers.

Legislative amendments

The March 2020 amendments recognise and aim to strengthen a child's maintenance of connection to their family, community, country and culture (see also Prevention). Specifically, the Act now mandates the filing of care plans (or interim care plans) for children who are in care, or are proposed to be in care, during court proceedings. The care plans include a section on culture (see also Participation).

Amendments also require exploration of all possibilities of reunification, and long-term protection orders now cannot give a non-family member long term parental responsibility unless it is important for the child's wellbeing and there is no one better suited.

Policies, frameworks and programs

Care and cultural plans

Since the Baseline Analysis was conducted in 2018, there have been some reports of government-funded programs, such as the Aboriginal Children with Aboriginal Carers program, delivered by ACCOs, that either:

- enable family and community participation in care planning, or
- implement contact arrangements or care/cultural plans.

Territory Families reported that at April 2020, 87% of children in young people in care had a current care plan; however, community concerns about consistency and adequately addressing cultural components have been reported. The agency also identified work completed in greater Darwin under the Connected Kids Project, which reviews all cases where children and young people are subject to long-term orders and aims to connect them to family, culture, language, and land.

Territory Families also reported examples of good practice including:

“One child who had lost contact with family since being entering care six years ago, was recently connected with family in community. The Grandmother is teaching the child stories of dreaming through art and taking the child hunting and fishing. The child is going back to community on school holidays. The child looks forward to going back to community and is re-building a connection with family and maintaining cultural connections to country.

“On another occasion a kinship carer needed to go to Darwin for medical reasons. The children were temporarily placed with non-Aboriginal carers in Darwin. The Carer in Darwin was supported to stay in contact with the kinship carer, so the children could have access with her. Once the kinship carer could return to community, Territory Families could obtain an exemption for the children to return with her (despite it being during the period of COVID-19 travel restrictions).”

Quality assurance requirements of residential care

Territory Families noted the continued requirements of service professionals in therapeutic residential care settings. Introduced in 2018, the requirements incorporate ATSICPP principles as well as quality assurance and accreditation processes to align with the national standards. Capacity building and monitoring is provided to services where additional work is required to meet expected standards.

All Territory Families-funded services which deliver care to children and young people unable to live at home are assessed under the Quality Assurance Program. Providers' Conditions of Contract require services to be provided in accordance with appropriate standards, principles, and practices.

The cyclical two-year Quality Assurance Program is an ongoing assessment and review process to determine whether identified standards, principles, and practices are being met in order to measure the standard of care delivered to children and young people.

In alignment with the program, in 2019-20, Territory Families undertook 112 unscheduled inspections of places of care across 13 service providers. All service providers demonstrated operational alignment to the national OOH standards.

Reunification

In 2018-2019, 75 Aboriginal children in the Northern Territory were reunified compared with 480 children who were not reunified, showing a low reunification rate. While recent data has not yet been published by AIHW, Territory Families reported that during the reporting period 166 Aboriginal children were reunited with family. The number of Aboriginal children who were not reunified is unknown.

Community voices

Sector leaders raised concerns that not all children have cultural care plans, that the 'cultural' sections of the care plan are frequently inadequate in their detail specific to the child, and the plans lack clear guidance on how cultural needs will be met. Language loss due to placement with carers who are not from the same cultural group remains an issue. Sector leaders noted the importance of Territory Families Aboriginal Cultural Workers working closely with ACCOs to cross check cultural connections work.

Concerns were also raised about lengthy waiting times for children who requiring cognitive and developmental assessments.

Leaders also raised several concerns with reunification processes, including:

- that despite amendments to the Act intended to enable the Court to make access conditions for children and families on adjournment, in practice, access provisions in the course of proceedings for children in care remain in the hands of the Department and subject to their resources
- limited or ceased intensive family service support once a child is removed, which impacts on reunification efforts
- the need for further resourcing access visits between children and families
- limited review of timelines or orders to support early reunification

- early reunification processes are often not considered and may be delayed until a court order is made. This can appear punitive to parents and may result in minimal family access for prolonged periods.

Conclusion

The reported data on reunification and adoption is positive and reflects a commitment to this element. However, increased consistency and support is needed for reunification efforts. The consistent inclusion of specific cultural details and clear implementation guidelines will strengthen the cultural components of care plans.