

REVIEWING IMPLEMENTATION OF
THE ABORIGINAL AND
TORRES STRAIT ISLANDER
CHILD PLACEMENT
PRINCIPLE
TASMANIA
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.

SNAICC advocates for the rights and needs of Aboriginal and Torres Strait Islander children and families and provides resources and training to support the capacity of communities and organisations working with our families.

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Introduction

This report reviews the progress of the Tasmanian Government, through the Department of Communities and its Children, Youth and Families division, 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 Child Placement Principle – A Resource for Legislation, Policy, and Program Development](#) and SNAICC, 2018, the [Aboriginal 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 2019-30 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 safety agencies across Australia and therefore do not fully consider the progress of other departments and agencies. However, the child safety 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 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 Child Placement Principle to recognise the rights of Aboriginal 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 Child Placement Principle: Tasmania*, available at <https://www.snaicc.org.au/wp-content/uploads/2019/02/ATSICPP-Baseline-TAS-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

Continued redesign of the child protection system through *Strong Families Safe Kids Implementation Plan 2016-2020*.

Implementation of *Safe Homes, Families, Communities: Tasmania's action plan for family and sexual violence 2019-2022*.

Develop specific policies and programs for Aboriginal and Torres Strait Islander children, families and communities.

Co-design policies and programs affecting Aboriginal and Torres Strait Islander children with Aboriginal community-controlled organisations (ACCOs), Aboriginal and Torres Strait Islander community, families and children.

Greater transparency around implementation of action areas relevant to Aboriginal and Torres Strait Islander communities.

Prevention element

Continued funding of the Strong Families Safe Kids Advice and Referral Line.

Funding Aboriginal Liaison Officer positions.

Employing a best practice funding model for the Tasmanian Aboriginal Centre (TAC) to deliver the Intensive Family Engagement Services program.

Partnership with ACCOs to deliver services.

Directly fund the TAC to recruit and manage Aboriginal Liaison Officer positions.

Increase funding for family support and intensive family support as a proportion of spending on child protection services.

Partnership element

Development of Beginning Practice program for new Children, Youth and Families staff incorporating culturally responsive practice.

Implementation of cultural safety training for all Child Safety Service staff.

Positive response to recommendations made by the *Commissioner for Children and Young People's Out of Home Care Report* to support genuine partnerships with Aboriginal communities and organisations.

Develop training modules in partnership with the TAC.

Ensure training continues after COVID-19 delays.

Ensure recommendations from the *Out-of-Home Care Monitoring* report to support genuine partnerships with Aboriginal communities and organisations are implemented.

Appoint Commissioner for Aboriginal Children and Young People.

Placement element

No specific progress was identified to implement the Placement element during this reporting period.

Prioritise placement with kin or Aboriginal carers.

Provide supports for kinship carers.

Focus on recruitment of Aboriginal carers.

Resource ACCOs to identify and support kinship placements.

Participation element

Continued funding of the Child Advocate position.

Finalisation of the Child Safety Practice Framework with a focus on child, family and community participation.

Implement independently facilitated Aboriginal family-led decision-making for significant decisions in line with best practice.

Fund TAC to ensure consistent support for children and families in Aboriginal family-led decision-making processes.

Implement the Child Safety Practice Framework, especially in regard to child, family and community participation.

Introduce policies and processes that support families and children to be involved in the development of Cultural Safety Plans in partnership with TAC or other ACCO.

Connection element

Improvement in identification processes for Aboriginal children involved with Child Safety Services.

Increase involvement of ACCOs in decision-making processes.

Introduce policies and processes that support the development of Cultural Safety Plans for all Aboriginal children.

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



Overview

Key findings

There have been no changes to the *Children, Young Persons and Their Families Act 1997* (the Act) since the baseline Tasmanian Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) report in 2018. There have been no other relevant legislative changes identified; however, a full review of the Act is anticipated to be undertaken during late-2021 and mid-2022, subject to Tasmanian Cabinet approval. Tasmania continues to have limited alignment of legislative, policy and process frameworks to meet the full intent of the ATSICPP. Limited mechanisms to ensure Aboriginal participation in policy reform, decision-making, system and service design, or delivery has resulted in a child safety system that does not always meet the needs of Aboriginal children, their families, and communities.

Key findings for each element include:

- **Prevention:** continued investment in the Intensive Family Engagement Services program is positive: however, the investment in family support and intensive family support services as a percentage of total expenditure on child protection and family support-related services remains low (13.1%).
- **Partnership:** there continues to be a lack of design, development and delivery of policy and programs in Tasmania by Aboriginal organisations. Tasmania is one of only two states and territories that does not provide data on the proportion of expenditure on ACCOs, making it difficult to track and report any improvements in implementing this element.
- **Placement:** there have been no identifiable efforts by the Department of Communities to implement the Placement element of the ATSICPP during the reporting period. This is concerning given that the number of children placed with Aboriginal carers decreased from 15% in 2018 to 13% in 2019 and has been steadily decreasing over the last decade.
- **Participation:** few efforts have been made to embed the ATSICPP element of Participation into policy and programs in supporting children, families and communities to participate in decision-making affecting their care and protection. A review of the Act will take the principles of the ATSICPP into consideration.
- **Connection:** there has been a concentrated focus by the Department to improve the identification of Aboriginal children involved with the Child Safety Services (CSS). The Permanency framework continues to be of concern for Aboriginal children and raises concerns over the reunification process.

There is currently limited implementation of all elements of the ATSICPP in Tasmania. Much work remains to be done to realise the ATSICPP across all aspects of the child protection system.

Key overarching initiatives

There have been few overarching initiatives commenced or continued during the reporting period. While there have been improvements made to the child protection system through the ongoing redevelopment, there continues to be an apparent lack of Aboriginal-specific initiatives that aim to improve implementation of the ATSICPP. Key initiatives include:

Safe Kids Safe Families Implementation Plan 2016-2020 – the redesign of the child protection system was finalised during the reporting period, with a final proposal endorsed in November 2019. However, there is little in the way of initiatives specifically for Aboriginal children and families. The only identified initiative is the addition of three Aboriginal Liaison Officers for the Advice and Referral Line, a process that saw two NGOs receive funding to engage and oversee the positions.

Safe Homes, Families, Communities: Tasmania's action plan for family and sexual violence 2019-2022 – two of the 40 actions of this plan relate specifically to Aboriginal families and communities. Action 10 aims to support Tasmanian Aboriginal communities to deliver targeted primary prevention and early intervention programs and to improve service delivery for Aboriginal people affected by family and sexual violence, while Action 17 aims to support Aboriginal families through the Aboriginal Family Safety Workers in Child and Family Centres. These actions are both aligned with the prevention element of the ATSICPP. The extent to which these actions are being implemented is unclear due to limited publicly available information on the progress, monitoring and reporting of the action plan.

Out of Home Care Foundations Project – the Out of Home Care Foundations Project commenced during the previous reporting period to improve the quality of out-of-home care (OOHC) services and create a strong foundation for the OOHC system. The aim of the project is to develop an outcomes framework, a quality and continuous improvement framework, and a future model for family-based care. So far only an outcomes framework has been developed. The 2019 ATSICPP implementation review raised concerns about the OOHC outcomes framework. While it recognises the importance of family participation in decision-making processes and the importance of connection to family, community and culture, it does not highlight the importance of identifying family and kin, or of placing Aboriginal children with family or Aboriginal carers. Additionally, the framework lacks emphasis on the importance of identification at the earliest possible point of Child Protection involvement, stating that this should occur “upon entry to care”.³ Since the 2019 implementation review, the Department of Communities has released of *A Discussion Paper: A Future Program for Familial Based Care* and an extensive consultation process was conducted through late 2018. The website also indicates that a proposed model for family-based care is being finalised and considered internally.

Out-of-Home Care Monitoring Program – in October 2019, the Commissioner for Children and Young People (CCYP) released the *Monitoring Report No. 1 The Tasmanian Out-of-Home Care System and “Being Healthy” Out-of-Home Care Monitoring Program 2018-19*. The CCYP's recommendations specifically address concerns raised in the 2019 implementation review that there continue to be no Department-established programs that align with best practice. The report recognises Tasmania's inability to fully implement the ATSICPP was hindered by difficulties in determining and recording the Aboriginal status of

³ Department of Communities Tasmania. (2018). *Outcomes framework for children and young people in out of home care Tasmania*, available at https://www.communities.tas.gov.au/_data/assets/pdf_file/0027/54639/Outcomes_Framework_for_OOHC_20181011.pdf

children and young people in OOHC. The report also acknowledges that significant work has been done in this area, resulting in the percentage of children with an 'unknown' Aboriginal status being reduced to 2%. The report makes several pertinent recommendations, including embedding the ATSICPP into legislation, policy, and practice.

Tasmanian Government Out-of-Home Care Response Report and Action Plan 2020 – this report is the Department's response to the *Monitoring Report No. 1 The Tasmanian Out-of-Home Care System and "Being Healthy" Out-of-Home Care Monitoring Program 2018-19*. The *Response Report* was released in March 2020 and included promising responses to some recommendations. However, the response was limited and failed to adequately address any specific concerns raised in previous reports that there are no Department-established programs that align with best practice. Examples of best practice include kinship and family scoping programs, placement identification, assessment, and support programs, Aboriginal family-led decision-making for placement identification and decision-making, reconnection programs, or legislative incorporation of the ATSICPP. The Tasmanian Government has reiterated that section 10G of the *Children and Young Persons and Their Families Act 1997* reflects the ATSICPP (see Placement); however, the 2018 baseline report noted that there is no legislative requirement for the participation of a recognised Aboriginal organisation in Placement or other significant decision-making. This has yet to be addressed.

Community voices

The Tasmanian Aboriginal Centre (TAC) reports funding for family support services remains inadequate, with TAC underfunded to deliver services around the state. The re-engagement of TAC to deliver Intensive Family Engagement Services (IFES) is a positive step, with funding delivered per family to allow greater capacity to meet the needs of Aboriginal children. TAC was overlooked by the Department when contracting organisations to engage and oversee the Aboriginal Liaison Officer positions, with funding going to two NGOs.⁴ The positions were sub-contracted to TAC and Circular Head Aboriginal Corporation (CHAC). There are no formal processes that require Child Safety Service (CSS) staff to inform TAC when notifications for Aboriginal children occur, with TAC involvement limited to the discretion of CSS. Concerns have also been raised around the Family Group Conferencing (FGC) process, with TAC reporting its invitation for involvement is inconsistent, it is denied a lead role, and funding is ad hoc. The follow-up on outcomes of FGC is also lacking, particularly when children are placed on orders until 18 years of age. There are no Department-established programs or initiatives for TAC to participate in child safety decision-making, to lead in family participation, or to take up case management or guardianship powers and functions.

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 the reporting period includes that:

- thirty-four per cent of all children and young people in OOHC in Tasmania are Aboriginal
- in Tasmania, Aboriginal children are 4.7 times more likely to be placed in OOHC than a non-Indigenous child. This is an increase from 4.0 in 2018.

⁴ Department of Communities Tasmania (2020). *Tasmanian Government Out of Home Care Response Report an Action Plan 2020*, available at <https://www.childcomm.tas.gov.au/wp-content/uploads/Government-response-to-OOHC-Report.pdf>

- Aboriginal children are in contact with child safety services at a rate of 57.2 per 1,000. This is much lower than the national rate of 155.6 per 1,000, although higher than the Tasmanian non-Indigenous rate of 12.8 per 1,000.
- in Tasmania, the percentage of Aboriginal children placed with kin or other Aboriginal carers is 42.3%
- the percentage of Tasmanian Aboriginal children placed with Aboriginal or Torres Strait Islander carers is 13%, a decrease from 15% in 2018. This is very low compared to other states, which range from 34.2% (Queensland) to 51.5% (New South Wales), and well below the national average of 43.8%. However, it should be noted that the high proportion of caregivers whose Indigenous status was not recorded may affect the identification of children living with Aboriginal and Torres Strait Islander caregivers.

Prevention

The prevention element of the ATSICPP aims to ensure Aboriginal children and their families grow up healthy, safe, and within their own family and community. Features of Prevention are broad: they can include addressing social determinants of health, organisational reforms to address institutional racism, or more targeted earlier interventions aimed at supporting families and preventing children from entering the child safety system. Thus, most government departments have a role to play in Prevention. This review, however, primarily focuses on the actions and progress of the Department of Communities to implement the Prevention element of the principle, while noting that true prevention can only be achieved with a whole-of-government approach.

The Department of Communities has endeavoured to implement the Prevention element by:

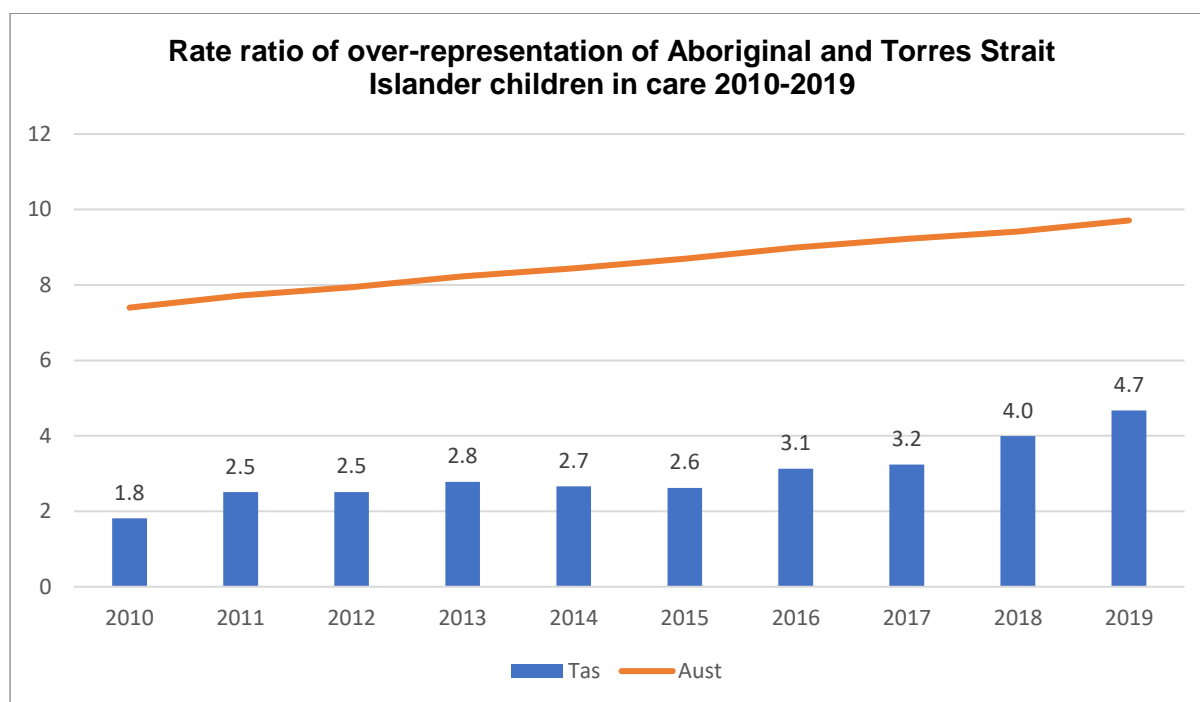
- continuing the redesign of the child protection system through the *Strong Kids Safe Families Implementation Plan 2016-2020*
- funding three Aboriginal Liaison Officer positions for the Advice and Referral Line
- continually funding TAC to deliver the IFES program.

Despite some promising initiatives to implement the Prevention element, Aboriginal children continue to be over-represented in OOHHC. Thirty-four per cent of children in OOHHC are Aboriginal, which is the highest proportion to date. In Tasmania, Aboriginal children were 4.7 times more likely to be placed in OOHHC than non-Indigenous children in 2019, a rate that has been increasing steadily since the 2010 rate of 1.8 (see Figure 1). Aboriginal children are in contact with the CSS at a rate of 57.2 per 1,000. This is much higher than the non-Indigenous rate of 12.8 per 1,000. The proportion of spending on intensive family support services in relation to other child safety services remains low, at 8% (see Figure 2).⁵ The proportion of expenditure on family support and intensive family support remained fairly stable between 2017-2018 (13.1%) and 2018-2019 (12.9%).⁶

⁵ ROGS data, Table 16A.7, available at <https://www.pc.gov.au/research/ongoing/report-on-government-services>

⁶ Ibid.

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



Strong Families-Safe Kids Implementation Plan 2016-2020

The *Strong Families-Safe Kids Implementation Plan* continued during the reporting period, with a final proposal endorsed in November 2019. The redesign aims to refresh the Tasmanian Child Safety Services by implementing practice that follows a social wellbeing approach. Operational implementation of the redesigned child safety system is scheduled to commence during the next reporting period. The Department of Communities *Annual Report 2018-2019* states that new partnerships with several non-government organisations have been established for service delivery of the reformed child protection system⁷; however, no mention was made of partnership with any ACCOs. The only specific mention of Aboriginal children and families in the *Implementation Plan* was the funding allocated for the appointment of two Aboriginal Liaison Officers to the Strong Families-Safe Kids Advice and Referral Line.⁸

Strong Families, Safe Kids Advice and Referral Line

The Strong Families, Safe Kids Advice and Referral Line was established in 2018 as a 'single front door' early intervention program enabling anyone with concerns about a child's safety and wellbeing to call for advice and referral to a service that best suits the needs of the child. The *Annual Report 2018-2019* claims new procedures and systems have been developed for the Advice and Referral Line, a training program has been rolled out, and

⁷ Department of Communities Tasmania (2019). *Annual Report 2018-2019*, available at https://www.communities.tas.gov.au/data/assets/pdf_file/0029/62768/2018-19-Communities-Tasmania-Annual-Report-Full-Report.pdf

⁸ Department of Communities Tasmania (2020). *Strong Kids Safe Families Implementation Plan 2016-2020*, available at https://www.communities.tas.gov.au/data/assets/pdf_file/0013/60412/0032_Strong_Families_Safe_Kids_-_Implementation_v9_final.pdf

contracts have been set up with several non-government partners. There is no mention of any ACCO being one of those partners.⁹

In 2020 work progressed to employ three Aboriginal Liaison Officers to be co-located within the Advice and Referral Line in each of the Tasmanian regions. The Aboriginal Liaison Officer's role is to enhance the Advice and Referral Line's ability to provide culturally appropriate coordination, advice, and assistance to Aboriginal families in need of this service. The Department funded two NGOs to appoint the Aboriginal Liaison Officers. The NGOs subcontracted the TAC to provide two of these positions, increasing administration costs.

Safe Homes, Families, Communities

The *Safe Homes, Families, Communities: Tasmania's action plan for family and sexual violence 2019-2022* is a high-level framework intended to apply to the Tasmanian population as whole, although there is some specific mention of Aboriginal communities. Action 10 is to "Support Tasmanian Aboriginal communities to deliver targeted primary prevention and early intervention programs and to improve service delivery for Aboriginal people affected by family and sexual violence",¹⁰ acknowledging the importance of delivery of services to Aboriginal children and families which are culturally tailored and appropriate. Action 17 aims to support families through the delivery of Aboriginal Child and Family Safety Workers in child care settings, recognising the need for culturally appropriate support and the importance of family participation when delivering services to address family violence and impacts on children.¹¹ While these actions seem promising, the extent to which they are being implemented is unclear due to limited publicly available information on the progress, monitoring and reporting of the action plan.

⁹ Department of Communities Tasmania (2019). *Annual Report 2018-2019*, available at https://www.communities.tas.gov.au/_data/assets/pdf_file/0029/62768/2018-19-Communities-Tasmania-Annual-Report-Full-Report.pdf

¹⁰ Department of Communities Tasmania (2019). *Safe Homes Families Communities: Tasmania's action plan for family and sexual violence 2109-2022*, available at http://www.dpac.tas.gov.au/_data/assets/pdf_file/0010/468055/Safe_Homes_Families_Communities_Tasmanias_action_plan_for_famly_and_sexual_violence_WCAG_27_June_V1.pdf

¹¹ Ibid.

Figure 2: Real recurrent expenditure for child protection 2018-2019, Tasmania

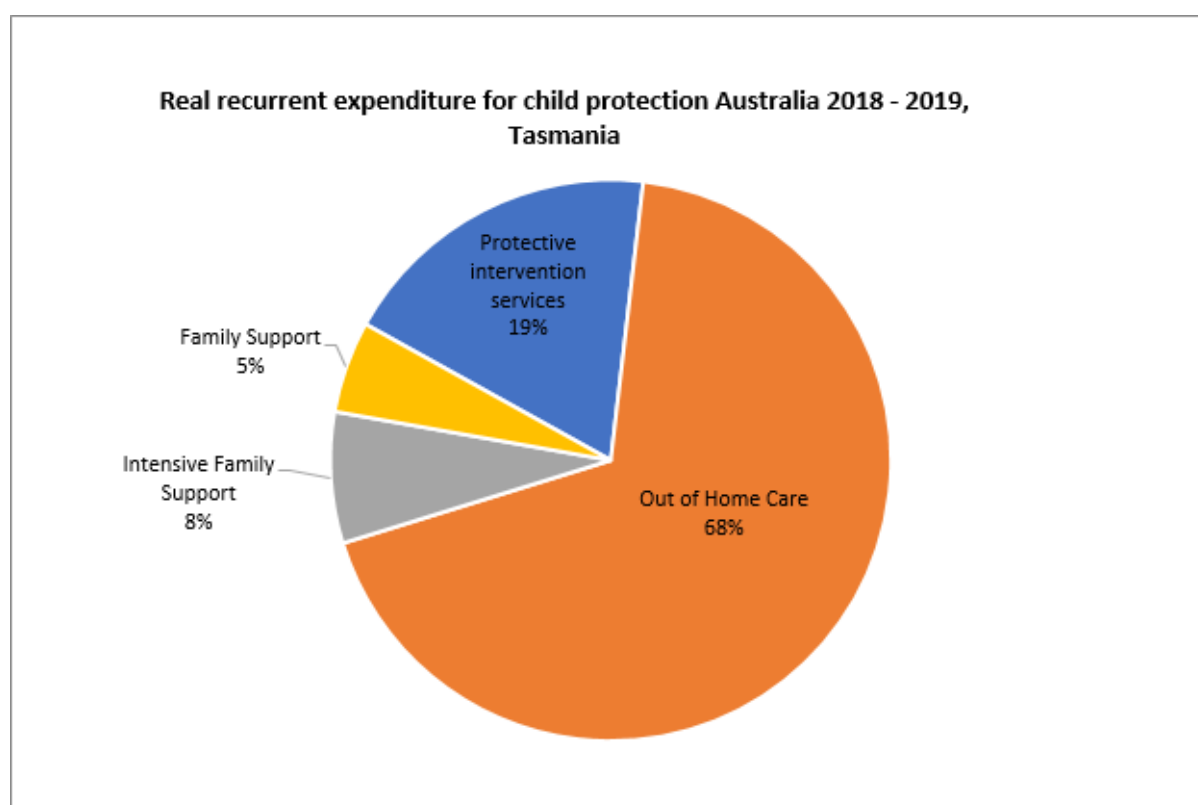
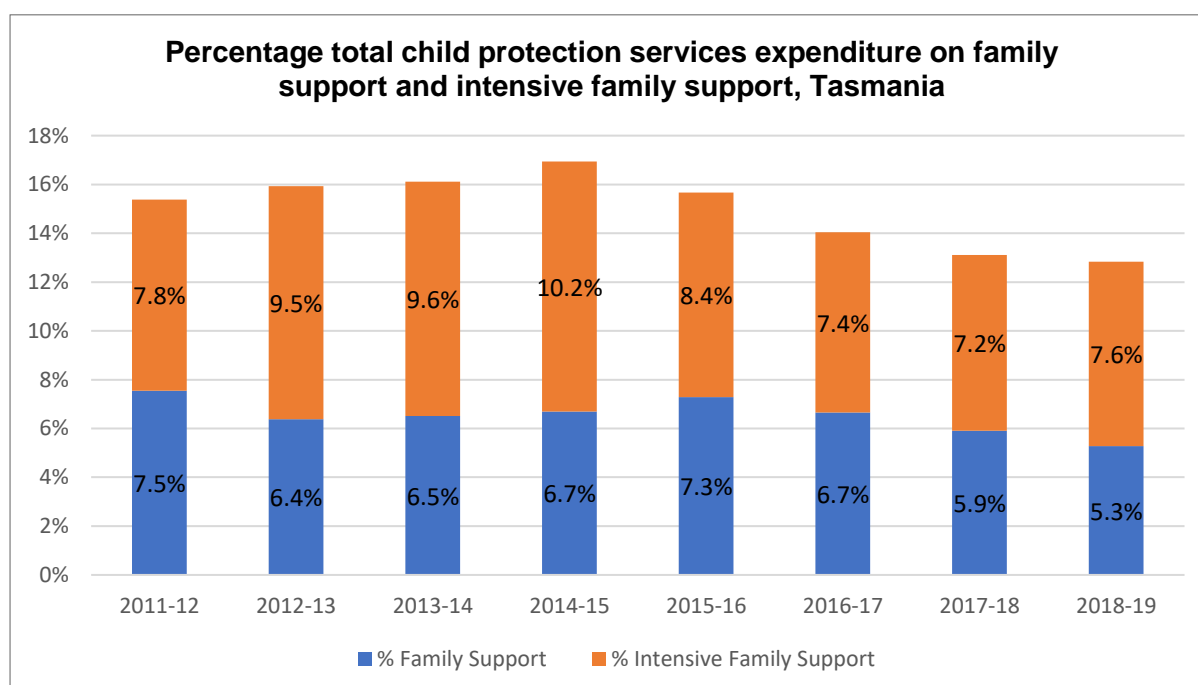


Figure 3: Percentage total child protection services expenditure on family support and intensive family support, Tasmania



Investment in family support and intensive family support is essential for strengthening families and preventing them from entering the child safety system. **Figure 2** indicates the Tasmanian Government's expenditure on family support and intensive family support remained relatively stable at 12.9% of the overall real expenditure on child protection in 2018-2019 compared to 13.1% in the previous year. This is a significant under-investment in

supports that promote the wellbeing of children and families, and lower than the Australian average of 16%. **Figure 3** indicates the expenditure on family support and intensive family support has been decreasing relative to expenditure on protective intervention and OOHC over the last eight years, from 15.3% in 2011-2012 to 12.9% of total expenditure in 2018-2019. This trend is concerning, with greater investment – not less – required to significantly reduce the number of Aboriginal children who enter care.

Intensive Family Engagement Services program

The IFES program commenced in February 2018, supporting families to develop parenting skills where there are concerns for safety and wellbeing of children and young people. A refined IFES model has since been designed to incorporate recommendations made by an external evaluation of the IFES program in 2019. The external evaluation, carried out by the University of Tasmania, is not publicly available.

TAC is one of only three organisations in the state to have been re-funded to deliver the IFES. The TAC received \$320,000 in the 2019-2020 financial year to provide services through the program, 18% of the total funding for IFES service delivery. Funding for IFES is allocated on a per family basis, allowing TAC to deliver intensive support that meets the needs of individual families. The high level of support required for these families is acknowledged in the funding arrangement, as an example of a best practice funding model that would improve all family support services.

Conclusion

Limited progress has been made towards implementing the Prevention element of the ATSICPP, and there remain few initiatives aimed specifically at Aboriginal children. Changes recommended by the 2019 ATSICPP implementation review to increase ACCO involvement in preventative service design and delivery have not been adequately addressed, with the *Strong Families-Safe Kids* redesign failing to identify any partnerships with ACCOs to deliver the reformed child safety system. The continued funding of TAC to deliver the Intensive Family Engagement Services program is a positive initiative, as is the Intensive Family Engagement Services program funding model. However, TAC remains the only ACCO engaged to deliver family support services and is significantly underfunded to do so. Funding for the Aboriginal Liaison Officers for the Advice and Referral Line went to two NGOs rather than TAC or another ACC, demonstrating a lack of recognition of the crucial role of ACCOs in delivering culturally responsive preventative services for Aboriginal children. The TAC was subsequently sub-contracted to fill two of the three liaison positions. There is little transparency around implementation of the Aboriginal-specific actions in Tasmania's *Action plan for family and sexual violence*, and spending on family support services remains low. This failure to fully implement the Prevention element severely undermines any efforts to implement other elements of the ATSICPP.

Partnership

The Department of Communities' *Annual Report 2018-2019* states it "will partner with Aboriginal organisations, developing a proposal for successful transitions from intensive placements, creating and recruiting Aboriginal Liaison positions, and developing a workplan for implementation of 'Active Efforts' to embed the Aboriginal and Torres Strait Islander Child Placement Principle".¹² However, legislative and policy requirements for the Partnership element of the ATSICPP remain weak, with no discernible updates or changes that address the concerns raised in the 2019 implementation review that there continues to be limited ACCO involvement in Department-funded support services for Aboriginal families.

Tasmania has endeavoured to implement the Partnership element by:

- implementing cultural safety training for all Child Safety Service (CSS) staff.

Cultural safety training

The Department reports the Children, Youth and Families (CYF) Beginning Practice program for new staff embeds the element of culturally responsive practice into the learning program. However, the package was developed without consultation with TAC. The authors of the training package and the extent of involvement of Aboriginal people in its design remains unclear. CYF has partnered with the TAC to deliver more in-depth cultural training to CSS staff in 2020. This includes a new training program, Aboriginal Cultural Awareness Training, introduced in early 2020 to be delivered three times throughout the year. The training has been delayed due to COVID-19 and has been rescheduled to occur during the next reporting period.

The Commissioner for Children and Young People

Since her appointment in 2019, Tasmanian Commissioner for Children and Young People (CCYP) Leanne McLean has engaged with Aboriginal community leaders and organisations to better understand the issues and priorities of Tasmanian Aboriginal communities for their children and young people.¹³ The CCYP has emphasised the need to consult with Aboriginal communities in relation to their views on the Permanency framework (see Placement) and related policies in her response to a consultation paper entitled *Developing a Permanency Framework for Children and Young People in the Child Protection System*. In her response, dated 7 June 2019, the CCYP stated that we must remember the centrality of the ATSICPP and the need to align legislation, policy and practice with its fundamental goal, which is "to enhance and preserve Aboriginal children's connection to family and community and sense of identity and culture". The actual consultation paper, or further information regarding the consultation, is not publicly available and it remains unclear whether Aboriginal-specific consultation has taken place.

In 2018 the interim CCYP, David Clements, advised the Minister for Human Services that the establishment of an Aboriginal Children's Commissioner in Tasmania is critical to promoting and strengthening the Tasmanian Government's ongoing commitment to improving outcomes for Aboriginal children, young people, and their families. It is unclear whether this advice has subsequently been given further consideration.

¹² Department of Communities Tasmania (2019). *Annual Report 2018-2019*, available at https://www.communities.tas.gov.au/_data/assets/pdf_file/0029/62768/2018-19-Communities-Tasmania-Annual-Report-Full-Report.pdf

¹³ Commissioner for Children and Young People Tasmania (2019). *Annual Report 2018-2019*, available at <https://www.childcomm.tas.gov.au/wp-content/uploads/ANNUAL-REPORT-2018-19.pdf>

OOHC Monitoring Report

The CCYP's *Monitoring Report No. 1: The Tasmanian Out-of-Home Care System and "Being Healthy" Out-of-Home Care Monitoring Program 2018-19* identified the potential for much greater involvement by Aboriginal organisations in ensuring that the wellbeing and best interests of Aboriginal children and young people are promoted and protected. Recommendation 4(b) "Ensures the participation of representatives of Aboriginal communities and organisations in service design, delivery and individual case decisions, and otherwise promotes and invests in genuine partnerships with Aboriginal communities to support self-determination".¹⁴ This recommendation directly addresses the criticism in the 2019 ATSICPP implementation review that "legislative and policy requirements for the partnership element of the ATSICPP remain weak, with very little emphasis on partnerships".¹⁵ The Department's response to this recommendation states the Tasmanian Government intends to progress the recommendation via the implementation of an *Active Efforts Action Plan* to embed ATSICPP with local Aboriginal communities.¹⁶

Conclusion

With limited emphasis on partnerships, there continues to be a lack of design, development and delivery of policy and programs in Tasmania by Aboriginal organisations. There remain no Department-established programs for Aboriginal organisations to participate in child safety decision-making, to lead in family participation through FGC, or to take up case management or guardianship powers and functions. While the CCYP Out-of-Home Care Monitoring Program raises the profile of the ATSICPP within the sphere of government, it is not a policy or program itself. Recommendations as to how to improve on the element of partnership have been taken into consideration by the Department; however, there has been limited follow through within the reporting period and many areas remain unaddressed. Further, while the CCYP advocates for all of Tasmania's children and calls for greater consultation with Aboriginal organisations and communities, the establishment of an Aboriginal Children's Commissioner with legislative powers is essential to strengthen Aboriginal oversight of the systems impacting Aboriginal and Torres Strait Islander children.

¹⁴ Commissioner for Children and Young People Tasmania (2019). *Monitoring Report No. 1: The Tasmanian out of home care system and "being healthy" -out of home care monitoring program 2018-2019*, available at <https://www.childcomm.tas.gov.au/wp-content/uploads/October-2019-FINAL-CCYP-Out-of-Home-Care-Monitoring-Report-No-1.pdf>

¹⁵ Commissioner for Children and Young People Tasmania (2019). *Monitoring Report No. 1: The Tasmanian out of home care system and "being healthy" -out of home care monitoring program 2018-2019*, available at <https://www.childcomm.tas.gov.au/wp-content/uploads/October-2019-FINAL-CCYP-Out-of-Home-Care-Monitoring-Report-No-1.pdf>

¹⁶ Department of Communities Tasmania (2020). *Tasmanian Government Out of Home Care Response Report an Action Plan 2020*, available at <https://www.childcomm.tas.gov.au/wp-content/uploads/Government-response-to-OOHC-Report.pdf>

Placement

The Department of Communities currently lacks sufficient policy and appropriate processes to implement the ATSICPP element of Placement. There have been limited attempts to implement this element, despite the issues raised in the 2019 implementation review.

Figure 4 shows the percentage of Indigenous children placed with kin or other Aboriginal carers in 2019 is 42.3%. This is much lower than the national average of 63.6%. The Tasmanian Government has reiterated that section 10G of the *Children and Young Persons and Their Families Act 1997* reflects the ATSICPP, as it states Aboriginal children should be placed in the following order of priority:

- (a) a member of the child's family
- (b) an Aboriginal person in the child's community in accordance with local community practice
- (c) another Aboriginal person
- (d) a person who –
 - (i) is not an Aboriginal person; but
 - (ii) in the Secretary's opinion, is sensitive to the child's needs and capable of promoting the child's ongoing affiliation with the culture of the child's community and, if possible, the child's ongoing contact with his or her family.¹⁷

However, the use of a broad interpretation of 'kin' or 'family' means that some Aboriginal and Torres Strait Islander children are being raised by non-Indigenous, non-family members. Tasmania's child safety legislation defines 'family' as: (a) all persons, other than the child's immediate family, to whom the child is or has been related by blood, adoption or marriage; (b) if a child is an Aboriginal child who has traditional Aboriginal kinship ties, those persons held to be related to the child according to Aboriginal kinship rules; and (c) if the child is a member of a community that accepts relationships other than those referred to in paragraph (a) or (b) as kinship ties, those persons held to be related to the child by that community.¹⁸ This wide statutory definition of 'family' does truly reflect Aboriginal and Torres Strait Islander kinship and may distort data available on how many Aboriginal and Torres Strait Islander children in OOH are having their cultural rights respected and cultural needs met. The result from such a placement can be a varying degree of separation from family and culture, which cannot rightly be deemed as compliant with the intent of the ATSICPP.

Figure 5 indicates the number of Aboriginal children placed with Aboriginal carers. This figure may be a better representation of children who are placed in accordance with the ATSICPP, as while they are not all deemed 'kin', Aboriginal carers are likely to help children maintain connection to culture more effectively than non-Indigenous carers. The number of children placed with Aboriginal carers decreased from 15% in 2018 to 13% in 2019. This is a significant decrease from 24.7% in 2006, and much lower than the national average of 43.8%. Tasmania has the lowest rate of children placed with Aboriginal carers in the country. The low rate of children placed with Aboriginal kin in Tasmania suggests a preference for placement with non-Indigenous extended family. Of those placed with kin or other Aboriginal and Torres Strait Islander carers, 69% are placed with non-Indigenous kin, a number that represents non-compliance with the Placement element of the ATSICPP.

¹⁷ Tasmanian Government (1997). *Children, Young Persons and their Families Act 1997*, 10G, available at <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-1997-028>

¹⁸ Tasmanian Government (1997). *Children, Young Persons and their Families Act 1997*, 3, available at <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-1997-028>

However, it should be noted that the Indigenous status is not recorded for a high number of caregivers which may affect the identification of children living with Aboriginal caregivers.

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

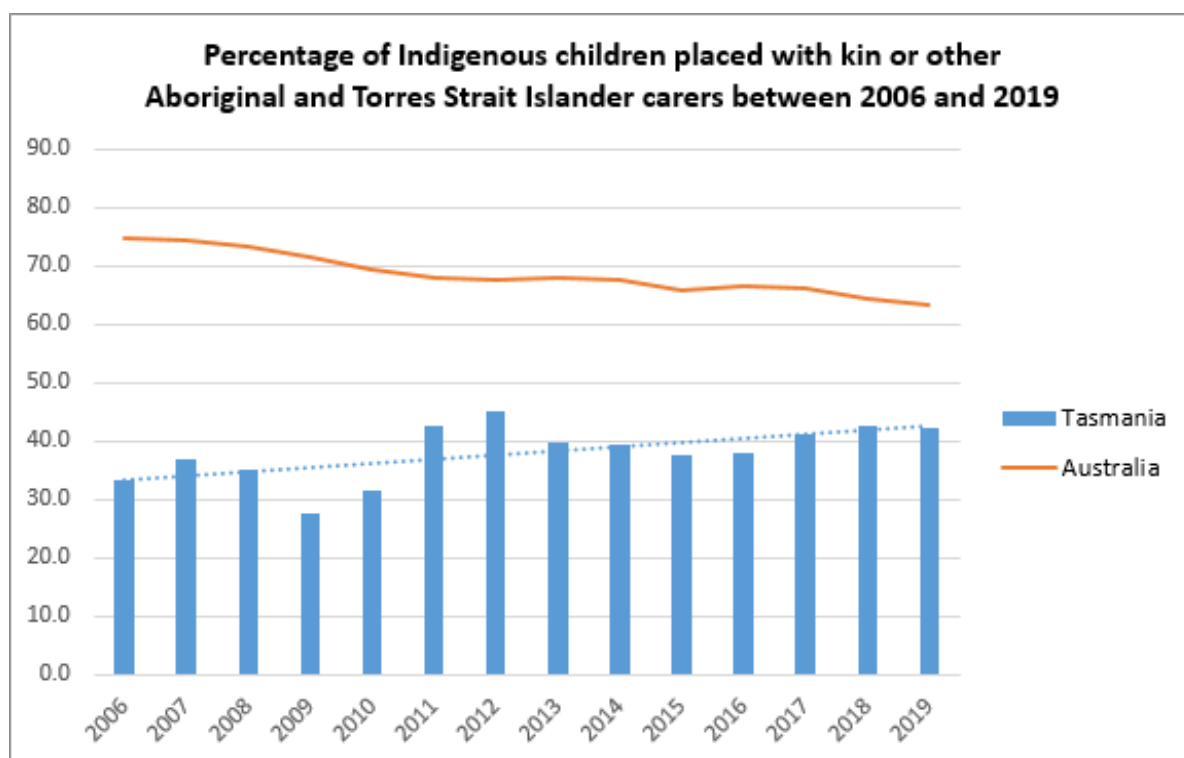
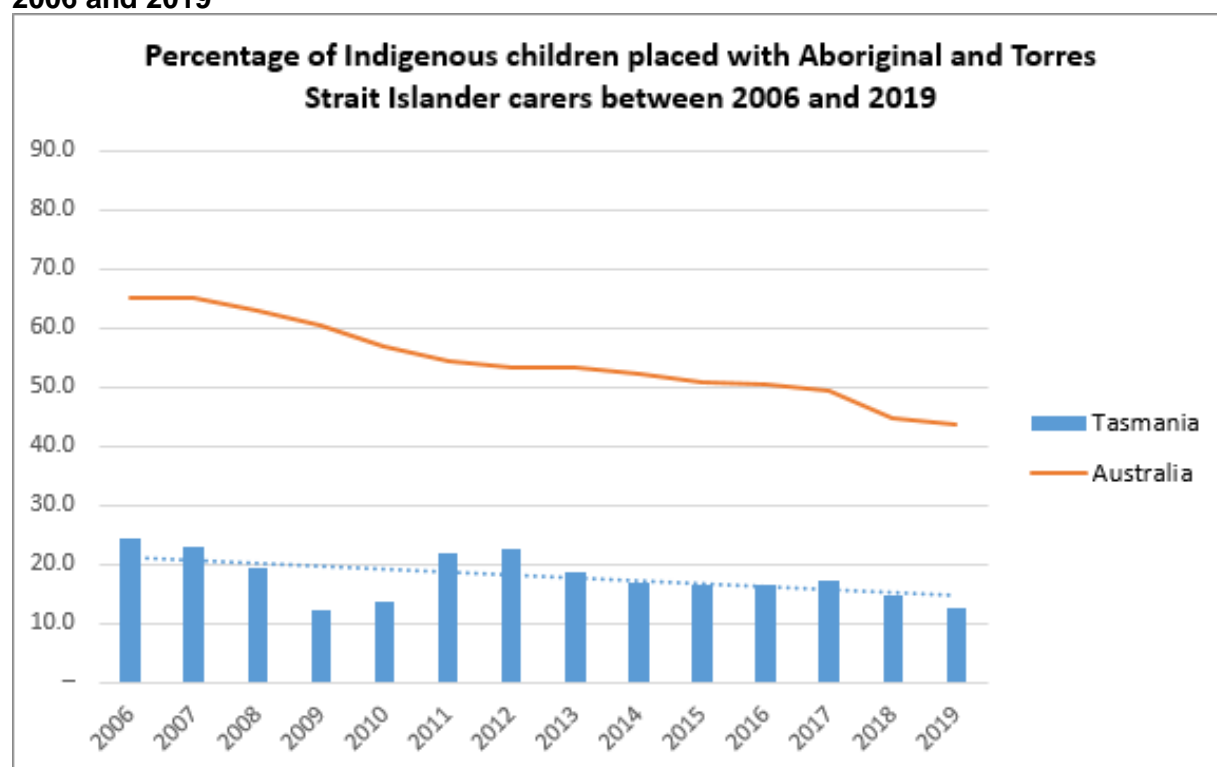


Figure 5: Percentage of Indigenous children placed with Aboriginal carers between 2006 and 2019



Foster Care Recruitment Project

The Tasmanian Government reports that the Foster Care Recruitment Project continued in the reporting period. This includes a foster care recruitment, assessment and retention team appointed for two years from early 2019 and a foster care helpline. The Project Manager met with the Elders of the Stoney Creek Nation in the north of the state and with the Office of Aboriginal Affairs (OAA) to discuss the recruitment of foster carers as well as CSS staffing. The Department reports the recruitment of Aboriginal foster carers is still a work in progress but remains a focus. However, the project does not include any specific supports for kinship carers, who are the first priority in the ATSICPP placement hierarchy for Aboriginal children.

Conclusion

There has been no identifiable significant progress by the Department to implement the Placement element of the ATSICPP during the reporting period, which is concerning given that Tasmania continues to have the lowest rate in the country of placing Aboriginal children with Aboriginal carers. The *Outcomes Framework for Children and Young People in Out of Home Care Tasmania* does not recognise the importance of identification of Aboriginal children and of placing Aboriginal children with family and Aboriginal carers. The foster care recruitment project has similarly not prioritised the recruitment of Aboriginal carers, with the project making no apparent progress on recruitment and does not include any support for kinship carers. There is also a lack of any other programs that are targeted to identify, recruit, and support Aboriginal kinship carers, noting that all other states and territories, except for the Australian Capital Territory, have Aboriginal kinship carer recruitment and support programs delivered by ACCOs in place, to varying degrees. Unless progress is made across policy or program areas that prioritise placement with kin or other Aboriginal carers, it is likely that Tasmania's rate of children placed in accordance with the ATSICPP will remain the lowest in the nation.

Participation

During the reporting period, the Department of Communities has endeavoured to implement the Participation element by:

- finalising the *Child Safety Practice Framework* for Children, Youth and Families staff
- continued funding of the independent Child Advocate position.

Family Group Conferencing

There is currently no Aboriginal family-led decision-making in Tasmania. Thirty-five Aboriginal children were involved in Family Group Conferencing (FGC) during the reporting period; however, FGC conducted in Tasmania falls short of the necessary criteria to effectively implement the Participation element of the ATSICPP. The Department reports there are no Aboriginal facilitators of decision-making processes and the participation of Aboriginal children in decisions about their own care and protection is unknown. TAC provided feedback indicating the conduct of FGC is inconsistent and funding to conduct FGC is ad hoc. The follow-up on outcomes arising from FGC is also lacking, particularly when children are placed on orders until 18 years of age.

Child Safety Practice Framework

The Department finalised a new *Child Safety Practice Framework* for Children, Youth and Families staff in May 2019. One of the four practice elements of the framework is to be

‘culturally responsive’. The framework states best practice principles of “engag(ing) with Aboriginal families and communities, supporting their right to self-determination and their role in promoting the wellbeing of Aboriginal children”, and being “culturally aware and accepting, asking the questions to explore and recognise children’s cultural identity”.¹⁹ However, Department policies and practices reported in this review, including the lack of cultural support plan development, suggest the framework is not being fully adhered to.

The Child Advocate

The independent Child Advocate position was established in 2018 to provide advocacy services for, and on behalf of, all children and young people in OOHC. In 2019 the Child Advocate and the CREATE Foundation established Youth Change Makers, a forum for young people with OOHC experience to contribute their views to CSS policy and practice reform. Youth Change Makers’ meetings are to be held quarterly in each region of Tasmania, with up to 15 young people involved. The Department reported each group has at least one Aboriginal member. Youth Change Makers and the Child Advocate are also developing an online survey designed to help inform a child or young person’s Care Plan and Care Team, allowing them to participate in the planning and decision-making process. The Youth Change Makers team have consulted with Aboriginal organisations to ensure questions about cultural needs and heritage have been included.

Conclusion

Limited effort has been made to include ACCOs and Aboriginal children and their families in decision-making processes. The absence of Aboriginal family-led decision-making processes in Tasmania prevents effective implementation of the Participation element, with current FGC processes failing to engage ACCOs or Aboriginal facilitators. Inclusion in current youth forums and survey consultation processes fail to provide Aboriginal children and their families with sufficient opportunities for full participation in decision-making processes. Aboriginal children need to be provided with the opportunity to fully participate in decisions about their care and protection and in the development and implementation of their cultural support plans, beyond providing input through online surveys. The development of a culturally responsive framework is a positive step, but only if the framework is fully implemented. Much more needs to be done to embed the Participation element into legislation, policy, and programs to ensure that children and families are provided with meaningful opportunities to participate in decision-making.

Connection

The Department of Communities has endeavoured to implement the Connection element primarily through improving identification processes for Aboriginal children involved with the CSS.

Identification of Aboriginal children

As a result of the 2019 workshop facilitated by SNAICC to explore and identify progress and barriers to full implementation of the ATSICPP, a concentrated focus to improve the identification of Aboriginal children involved with the CSS was actioned. The Department reports this resulted in a significant decrease in the number of children for whom Aboriginal

¹⁹ Department of Communities Tasmania(2019). *Child Safety Practice Framework*, available at https://www.communities.tas.gov.au/children/child_protection_services/child-safety-practice-framework

status is 'unknown' (from 30% to 2%), supporting and enabling the targeting of culturally responsive practices. Conversely, the TAC reports a decrease in the identification of Aboriginal children since the introduction of the 'single front door' approach of the Strong Families, Safe Kids Advice and Referral Line. The CCYP also noted that some non-government OOHC providers did not know the Aboriginal status of children and young people placed with them.²⁰ This is problematic as this knowledge is necessary for OOHC providers to ensure the children's rights and vital connections to family, community, and culture are being supported.

Permanency Framework

The development of a *Permanency Framework* has been an important element of the *Strong Families-Safe Kids* redesign, aiming to strengthen placement stability for children and young people in OOHC through permanent care options. This framework is of concern for Aboriginal children in the general context of implementation of the ATSICPP in Tasmania – an issue that was raised in the 2019 implementation review. In conjunction with limited mechanisms to ensure Aboriginal participation in policy reform, decision-making, system and service design, or service delivery, the framework may result in greater barriers to reunification for Aboriginal families. There is limited information available on the application of the *Permanency Framework* and its implications for Aboriginal families. At 23.4 per 1,000, Tasmania has the lowest rate of Aboriginal children on long-term guardianship, custody, or third-party parental orders nationally.²¹

Cultural Support Plans

There are no specific references to any cultural care or support elements of case or care plans – or the plans themselves – in any available Tasmanian policy documents. In the *Monitoring Report No. 1* (see Partnership), the CCYP found that Aboriginal cultural planning is not being consistently conducted for all Aboriginal children and young people in OOHC. Non-government OOHC providers indicated they require assistance with cultural planning as most do not have the internal resources to develop Cultural Plans for Aboriginal children and young people.²² The TAC reports there is no funding for ACCOs to support cultural planning, and other organisations should not be doing it. It has expressed a need for resources and mandatory processes to develop and implement cultural support plans.

Conclusion

While the focus on improving identification processes for Aboriginal children involved with CSS is a positive step, reports from the TAC suggest the processes are not always being effectively implemented. The *Out of Home Care Response Report and Action Plan 2020* states that the Department will engage and work with the Aboriginal community and organisations to scope an 'on Country' residential program for Aboriginal children and young people to be delivered in Tasmania by Aboriginal people. There is no apparent evidence to suggest any other progress has been made in relation to the Connection element of the ATSICPP. Indeed, it is considered that some policies and processes have been identified to hinder the implementation. The *Permanency Framework* has the potential to undermine the Connection element, and information available suggests there is a lack of safeguards to

²¹ 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/>

²² Commissioner for Children and Young People Tasmania (2019). *Monitoring Report No. 1: The Tasmanian out of home care system and "being healthy" -out of home care monitoring program 2018-2019*, available at <https://www.childcomm.tas.gov.au/wp-content/uploads/October-2019-FINAL-CCYP-Out-of-Home-Care-Monitoring-Report-No-1.pdf>

protect children's cultural rights and connections in the context of permanency planning. A lack of consistent cultural support planning means young people in OOHC have no plan to assist their connection to culture, family, and community. Without resources or processes to implement cultural support plans and an apparent lack of ACCO involvement in decision-making at any level, the ATSICPP element of Connection remains unrealised.