

REVIEWING IMPLEMENTATION OF
THE ABORIGINAL AND
TORRES STRAIT ISLANDER
CHILD PLACEMENT
PRINCIPLE
QUEENSLAND
2021



SNAICC
National Voice for our Children

Contents

Contents.....	2
Acronyms and abbreviations	3
Introduction	4
Overview	5
Prevention.....	7
Partnership.....	11
Placement	14
Participation.....	15
Connection.....	16

Acronyms and abbreviations

ACCO	Aboriginal and Torres Strait Islander community-controlled organisation
AFLDM	Aboriginal Family-Led Decision-Making
CFDM	Collaborative Family Decision-Making
Child Placement Principle	Aboriginal and Torres Strait Islander Child Placement Principle
Department	Department of Children, Youth Justice and Multicultural Affairs
EIRC	Early Indigenous Response Collective
FGC	Family Group Conferencing
FPPs	Family Participation Programs
OOHC	Out-of-home care
QATSICPP	Queensland Aboriginal and Torres Strait Islander Child Protection Peak

Introduction

This report reviews the progress of the Queensland Government, through the Department of Children, Youth Justice and Multicultural Affairs (Department), in implementing the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle.

The five elements of the Child Placement Principle are: *Prevention, Partnership, Placement, Participation, and Connection*.

The aim of the Child Placement Principle is to:

- embed an understanding that culture is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children and young people and is embedded in policy and practice;
- recognise and protect the rights of Aboriginal and Torres Strait Islander children, family members and communities in child safety matters;
- support self-determination of Aboriginal and Torres Strait Islander people in child safety matters; and
- reduce the over-representation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care (OOHC) systems.

This year's review analyses implementation efforts over the financial year 1 July 2020–30 June 2021 (2020-2021). This change from the previous May-April reporting period better aligns with jurisdictions' data and activity reporting cycles and with policy and legislative changes made during the year. While the change has meant that May–June 2020 may have been missed, stakeholders were strongly encouraged to provide any pertinent information that occurred in these two months.

The annual jurisdictional reviews are developed by SNAICC – National Voice for our Children (SNAICC) with input from Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) and state and territory governments. The reviews are informed by the best practice approach set out in SNAICC's Child Placement Principle resource series¹, the 2018 Baseline Analysis of Child Placement Principle,² and subsequent annual reviews of the Baseline Analysis undertaken by SNAICC.

Quantitative and qualitative analysis is used to measure and review jurisdictions' progress against the five elements and across five interrelated systems elements – legislation, policy, programs, processes, and practice.

Quantitative data is taken primarily from chapter 16 (Child Protection) of the *2022 Report on Government Services*³ and the Australian Institute of Health and Welfare (AIHW) *Child Protection*

¹ Including: SNAICC (2017) *Understanding and applying the Aboriginal and Torres Strait Islander Child Placement Principle*. Available at: www.snaicc.org.au/wp-content/uploads/2017/07/Understanding_applying_ATSICCP.pdf;

SNAICC (2018) *The Aboriginal and Torres Strait Islander Child Placement Principle: A guide to support implementation*. Available at: www.snaicc.org.au/wp-content/uploads/2019/06/928_SNAICC-ATSICPP-resource-June2019.pdf

² SNAICC (2018) *Baseline Analysis of Child Placement Principle*. Available at: www.snaicc.org.au/policy-and-research/child-safety-and-wellbeing/baseline-analyses-of-child-placement-principle

³ Steering Committee for the Review of Government Service Provision, Productivity Commission (2022) *Report on Government Services – Chapter 16 – Child Protection*. Available at: www.pc.gov.au/research/ongoing/report-on-government-services/2022/community-services/child-protection

Australia 2020-21 report (AIHW Report).⁴ OOHC figures in this review comprise ‘out-of-home care’ and ‘third party parental responsibility orders’ from the AIHW report. Data on ‘children of unknown Indigenous status in out-of-home care’ have not been included in this review’s figures.

These reviews map implementation progress and gaps across Australia, highlight governments’ reform successes, and hold governments accountable to their efforts (or lack thereof) in achieving better outcomes for Aboriginal and Torres Strait Islander children and their families. In this way, they align with the priority reform areas of the *National Agreement on Closing the Gap*, including Priority Reform 4 on improving Aboriginal and Torres Strait Islander peoples’ access to data that affects them and their communities.

SNAICC issued requests for information to state and territory departments responsible for child protection and family support in each jurisdiction, to provide information that shows significant progress and reforms towards achieving full implementation of the Child Placement Principle between 1 July 2020-30 June 2021. Some of the information requested was not provided and in some cases, jurisdictions advised that this is because they do not collect or record the data sought. SNAICC also sought clarification from jurisdictions after the initial requests for information and provided them with an opportunity to review the draft reports, add information and/or correct any errors.

State governments reported that progress in implementing the Child Placement Principle during this period of review was impacted by the COVID-19 pandemic. The review therefore acknowledges that delivery and implementation of some programs and initiatives was delayed due to COVID related restrictions and the need to prioritise government resources.

The reviews come out of the National Framework for Protecting Australia’s Children 2009–2020. The next ten-year framework, *Safe and Supported: The National Framework for Protecting Australia’s Children 2021–2031*, goes further by embedding a stronger focus on and promoting and enabling full implementation of the Child Placement Principle.

Overview

Queensland remains the first jurisdiction to enshrine all five elements of the Child Placement Principle into its child protection legislation and to commit to a whole-of-government, generational strategy to eliminate overrepresentation.⁵

Prevention: Queensland continued to have the second lowest rate of OOHC overrepresentation in Australia. However, Aboriginal and Torres Strait Islander children still made up 44.2% of all children in OOHC in the state during this reporting period, and 5.0% of all Aboriginal and Torres Strait Islander children in Queensland were in OOHC. Further to this, the state has seen an increase of Aboriginal and Torres Strait Islander children in OOHC since 30 June 2019, with the number rising by 757 children to 4,911 Aboriginal and Torres Strait Islander children in OOHC at 30 June 2021.

Queensland’s key policy initiatives that support Aboriginal and Torres Strait Islander children and families continued to be *Our Way: A Generational Strategy for Aboriginal and Torres Strait Islander*

⁴ Australian Institute of Health and Welfare (AIHW) (2022) *Child protection Australia 2020–21*. Available at: <https://www.aihw.gov.au/reports/child-protection/child-protection-australia-2020-21/contents/out-of-home-care/characteristics-of-children-in-out-of-home-care>

⁵ Family Matters (2021) *The Family Matters Report 2021*, p. 47. Available at: www.familymatters.org.au/wp-content/uploads/2021/12/FamilyMattersReport2021.pdf

Children and Families 2017-37; the strategy's second action plan, *Changing Tracks 2: an Action Plan for Aboriginal and Torres Strait Islander Children and Families 2020-22*; the whole-of-government *Wellbeing Outcomes Framework for Aboriginal and Torres Strait Islander Children and Young People in Queensland*; and the 10-year *Supporting Families, Changing Futures* reform program.

Nearly 5,000 (4,903) Aboriginal and Torres Strait Islander children started intensive family support services in Queensland in 2020-21, making up 46% of all children who commenced these services in this reporting period. This was the highest number of Aboriginal and Torres Strait Islander children in any state commencing family support services.⁶

Partnership: The state's second action plan under *Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families 2017-37*⁷ (*Our Way*) recognises and promotes ACCO participation in all significant decision-making and commits the government to genuine partnership in co-design of legislation and policy. Over this reporting period, the Department continued its partnerships with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), Family Matters Queensland, and the Queensland First Children and Families Board through the co-design of the third *Our Way* action plan: *Breaking Cycles 2023-25*. These partnerships are working towards reforming the state's child protection system and implementing programs that support Aboriginal and Torres Strait Islander children and families in need of support and protection.

Placement: While there were promising policies and programs in place to ensure Aboriginal and Torres Strait Islander children in OOHC were being placed with family, the data reveals there is a long way to go.

Just 21.7% of Aboriginal and Torres Strait Islander children in OOHC were placed with Aboriginal and Torres Strait Islander relatives or kin. This is well below the national average of 31.3%. In addition, 17.0% of Aboriginal and Torres Strait Islander children in OOHC were placed with non-Indigenous relatives and 11.9% with other Aboriginal and Torres Strait Islander carers. Concerningly, 35.6% of Aboriginal and Torres Strait Islander children in OOHC were placed with non-Indigenous carers who were not relatives or kin.⁸ 591 Aboriginal and Torres Strait Islander children were placed in residential care, making up 43% of all children in residential care.⁹

Participation: Queensland's legislation remains the most comprehensive of all jurisdictions, particularly in meaningfully supporting the participation of Aboriginal and Torres Strait Islander children, families and communities in decision-making. Existing government programs continue to encourage the participation of Aboriginal and Torres Strait Islander children, parents and family members in decisions regarding the care and protection of their children. The second *Changing Tracks* action plan and the Department's *Supporting Families Changing Futures 2019-23* strategy make provisions for culturally safe family group conferencing (FGC), mediation and/or other family participation programs, as supported and delivered by ACCOs.

⁶ Steering Committee for the Review of Government Service Provision, Productivity Commission (2022) *Report on Government Services – Chapter 16 – Child Protection*, Supplementary Data Tables, Table 16A.34. Available at: www.pc.gov.au/research/ongoing/report-on-government-services/2022/community-services/child-protection

⁷ The State of Queensland (Department of Communities, Child Safety and Disability Services) (2017) *Our Way – A Generational Strategy for Aboriginal and Torres Strait Islander Children and Families 2017-2037*. Available at: <https://www.cvjma.qld.gov.au/campaign/supporting-families/background/strategy-action-plan-aboriginal-torres-strait-islander-children-families>

⁸ Ibid Table 16A.22.

⁹ Steering Committee, n 3, Table 16A.20.

However, only \$14 million of annual funding to ACCOs is directed to Family Participation Programs (FPPs), which has proven insufficient to meet demand. Many families that would be eligible for FPPs when a significant child protection decision is being made are not able to access the service due to resourcing limitations.

Connection: Queensland had the second-highest proportion of Aboriginal and Torres Strait Islander children in care with current cultural support plans – 95.4% of Aboriginal and Torres Strait Islander children in OOHC who were required to have a current cultural support plan did so.¹⁰ This is a promising statistic and well above the national average of 73.4%. However, this does not indicate the quality of these plans, including whether the plans were implemented, are meeting children’s cultural needs and enabling each child’s connection to culture.

The *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020* (Qld) (MOKK Act) was passed in this reporting period (September 2020). This legislation recognises the Ailan Kastom child rearing practice, whereby a child’s biological (birth) parents may agree for another couple (the culture parents) within their extended family to permanently raise their biological child as the culture parent’s own. Recognition of this practice and of the cultural parents of children raised with Ailan Kastom ensures that a child who has been raised in accordance with the practice will have their legal identity reflect their cultural identity.

In regard to reunification, 12.7% of eligible Aboriginal and Torres Strait Islander children in care were reunified with their families in 2020-21 (noting that children on long-term orders, including long-term custody, guardianship and third-party parental responsibility orders, are not eligible for reunification), an increase from 12.2% in 2019-20.¹¹ This puts the state below the national average of 16.4% in 2020-21.

Prevention

Queensland is seeing a gradual increase of Aboriginal and Torres Strait Islander children and young people in OOHC. At 30 June 2019, 4,154 Aboriginal and Torres Strait Islander children were in OOHC; by 30 June 2021, this number had increased to 4,911.¹² While the state continued to have the second lowest rate of overrepresentation in Australia, Aboriginal and Torres Strait Islander children still made up 44.2% of all children in OOHC in Queensland in the reporting period.¹³ Aboriginal and Torres Strait Islander children in Queensland were 8.78 times more likely to be in OOHC than their non-Indigenous peers (compared to 8.5 times in 2019-2020), which was less than the national average of 10.33 times.

Our Way continued to be the primary policy initiative to address the over-representation of Aboriginal and Torres Strait Islander children in the child protection system during 2020-21. This strategy also remained the state’s key means to support Aboriginal and Torres Strait Islander children and families. *Our Way* is being implemented through a series of action plans over 20 years,

¹⁰ Aboriginal and Torres Strait Islander Child Placement Principle Indicators, Supplementary Data Tables (2022) _Table S2.2a.

¹¹ Ibid.

¹² Steering Committee for the Review of Government Service Provision, Productivity Commission (2022) *Report on Government Services – Chapter 16 – Child Protection*, Table 16A.2 and 16A.3. Available at: www.pc.gov.au/research/ongoing/report-on-government-services/2022/community-services/child-protection

¹³ Ibid.

with each action plan co-developed by the Queensland Government, Family Matters Queensland, and the Queensland First Children and Families Board.

The strategy's second action plan, *Changing Tracks 2: an Action Plan for Aboriginal and Torres Strait Islander Children and Families 2020-22*, was in place over the reporting period. There have been no significant changes to the plan since the 2020 Queensland Child Placement Principle review.¹⁴ Nonetheless, relevant actions of the plan will be discussed in this report as the plan is the foremost way the Queensland Government aims to embed the entirety of the Child Placement Principle into legislation, policy, programs, processes and practices.

Within the reporting period, parts of the plan had been successfully implemented and/or had continued to receive funding through the Queensland State Budget. This included enacting legislation that provides legal recognition to Torres Strait Islander families' traditional child rearing practice – *Meriba Omasker Kaziw Kazipa*. This legislation is one means through which the Queensland Government acknowledges the importance of culture and cultural decision-making processes in Torres Strait Islander communities and family life – discussed in more detail in the [Connection](#) section below.

The 10-year *Supporting Families, Changing Futures* reform program was also into its seventh year in the reporting period. This program focuses on promoting a whole-of-government approach towards meeting the needs of all Queensland's children, young people and families who are experiencing vulnerability. It also aims to increase the reach and effectiveness of family support services to help more families earlier and reduce the number of families escalating into the child protection system.¹⁵ In its 2020-21 State Budget, the Department announced a \$166.6 million investment towards continued reforms with sector and community stakeholders through this program.¹⁶

The current *Our Way* action plan, the *Supporting Families, Changing Futures* strategy, and the Queensland Government's *Wellbeing Outcomes Framework for Aboriginal and Torres Strait Islander Children and Young People* (Wellbeing Outcomes Framework)¹⁷ are the mechanisms outlined by the Queensland Government to prioritise investment into prevention and early intervention. This includes both universal child and family services and intensive/targeted family support services. In particular, the second action plan for the *Our Way* Strategy promotes the essential role of ACCOs in providing early intervention services to Aboriginal and Torres Strait Islander children and families. The government also supported and invested in community-controlled services that aim to improve the quality of family services, including through the QATSICPP Professional Scholarships program.

Aboriginal and Torres Strait Islander Family Wellbeing Services, funded by the Department, are a critical component of *Our Way* and its Action Plans¹⁸ that continued to combine the functions of existing family support programs into one community-run family wellbeing service. The services that Aboriginal and Torres Strait Islander workers are able to collaborate with include a wide range of

¹⁴ SNAICC (2020) *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle Queensland*. Available at: www.snaicc.org.au/reviewing-implementation-of-the-aboriginal-and-torres-strait-islander-child-placement-principle-2020

¹⁵ Queensland Government (May 2022) *Support Families Changing Futures 2019-2023* webpage. Available at: www.qld.gov.au/about/newsroom/supporting-families-changing-futures-2019-2023

¹⁶ Queensland Government (2020) *State Budget 2020-2021*. Available at: www.treasury.qld.gov.au/resource/state-budget-2020-21

¹⁷ Queensland Department of Communities, Child Safety and Disability Services (November 2019) *A Wellbeing Outcomes Framework for Aboriginal and Torres Strait Islander children and young people in Queensland*. Available at: www.cyjma.qld.gov.au/campaign/supporting-families/background/strategy-action-plan-aboriginal-torres-strait-islander-children-families

¹⁸ Queensland Department of Children, Youth Justice and Multicultural Affairs (DCYJMA) (2022) *Aboriginal and Torres Strait Islander Family Wellbeing Services* webpage. Available at: www.cyjma.qld.gov.au/protecting-children/child-family-reform/meeting-needs-requirements-aboriginal-torres-strait-islander-children-families-communities/aboriginal-torres-strait-islander-family-wellbeing-services

culturally appropriate universal, secondary and specialist services, with individual families to plan and provide a tailored, holistic and coordinated response to each families' specific needs.

The Department reported in its submission to this review that early evidence suggests a high level of success in these services in de-escalating risks in Aboriginal and Torres Strait Islander families and addressing family needs. The Department noted that an evaluation of the services found that 93% of children and families who completed a family wellbeing service required no further investigation by child protection in the following six months. No further information on this evaluation was provided.

During 2020-21, nearly 5,000 (4,903) Aboriginal and Torres Strait Islander children started intensive family support services in Queensland, making up 46% of all children who commenced these services in this period in the state.¹⁹

It is not yet possible to tell from this data whether the policies and programs mentioned above are having an impact on Aboriginal and Torres Strait Islander children and families, as data quality improvement work (commenced in 2018-19) is still underway. No data concerning families accessing supports was recorded in 2018-19 and numbers for 2019-20 are estimates only as data improvement work continued. As such, this reporting period is the first year where numbers can be used to track policy and program impact on Aboriginal and Torres Strait Islander children's ability to commence critical family support services.

Alongside this is the Queensland Government's expenditure on – and investment into – family support and intensive family support. Investment into these services is essential for preventing families from entering the child protection system. Unfortunately, the Queensland Government's expenditure on prevention services continued to only increase incrementally as a percentage of the state's total real recurrent expenditure on all child protection services. The 2021 *Family Matters* report also identified that government expenditure has not been proportional to high child / unborn baby needs.²⁰

In 2020-21, the Government's overall child protection services expenditure was \$1,509,431.²¹ Of this, only 14.2% was spent on family support services, including intensive family support services. The other 85.8% was spent on protective intervention and care services. This indicates that the bulk of funding is still being directed to the tertiary end of the system, with insufficient resources directed to supporting children and families in order to prevent serious child protection intervention.

According to the Department's submission to inform this review, Queensland continued to grow the proportion of investment provided to ACCOs in this reporting period, with 20.6% of expenditure in 2020-21 for family support, and 35.9% of expenditure in 2020-21 for intensive family support services being directed to ACCOs (the highest proportions nationwide). The state's 2021 *Closing the Gap Implementation Plan* also reported that in 2020-21, \$67 million went towards the continued and expanded investment in the Aboriginal and Torres Strait Islander community-controlled sector to deliver culturally sound responses to the needs of Aboriginal and Torres Strait Islander children

¹⁹ Steering Committee for the Review of Government Service Provision, Productivity Commission (2022) *Report on Government Services – Chapter 16 – Child Protection*, Table 16A.34. Available at: www.pc.gov.au/research/ongoing/report-on-government-services/2022/community-services/child-protection

²⁰ Family Matters (2021) *The Family Matters Report 2021*. Available at: www.familymatters.org.au/wp-content/uploads/2021/12/FamilyMattersReport2021.pdf

²¹ Steering Committee for the Review of Government Service Provision, Productivity Commission (2022) *Report on Government Services – Chapter 16 – Child Protection*, Table 16A.8. Available at: www.pc.gov.au/research/ongoing/report-on-government-services/2022/community-services/child-protection

and families'.²² However, there are no clear targets or strategy for how the increase to early intervention and prevention funding and service design will be supported. It is hoped that the new *Breaking Cycles Action Plan* will focus on this area to make substantive progress.

The Department has also committed to continue to increase investment in the ACCO sector for the delivery of child protection services to First Nations children and families.²³ Given the rising number of Aboriginal and Torres Strait Islander children in care, this indication of increased state financial support towards culturally safe prevention services is positive.

The Early Indigenous Response Collective (EIRC) and HALT (meaning 'stop, slow down') are two diversionary collective models that operate in collaboration with the Queensland child protection system. As detailed in the 2020 Queensland Child Placement Principle review,²⁴ both models are designed to safely divert children and their families from tertiary responses towards the Aboriginal and Torres Strait Islander community-controlled child and family support sector. The EIRC is to be evaluated by an independent evaluator, and HALT case study research was published in October 2022, demonstrating positive outcomes and supporting the ATSI CPP to be enacted to the standard of active efforts.²⁵ Further information on both models is expected to be provided in the 2022 Child Placement Principle review.

In the previous reporting period (2019-20), and as reported in the 2020 Child Placement Principle review, the Department also implemented legislation that delegates the functions and powers of the state's Child Safety Chief Executive to an Aboriginal and Torres Strait Islander Chief Executive of an Aboriginal and Torres Strait Islander entity, in cases of Aboriginal and Torres Strait Islander children in need of protection. While this legislation is discussed in the *Partnership* section below, the Department considered this to also be a *Prevention* activity, as the legislation is expected to improve ACCOs' abilities to prevent Aboriginal and Torres Strait Islander children 'escalating up' into the statutory child protection system.

It is also important to note that, through its submission to this year's review, the Department recognised the importance of social determinants in preventing Aboriginal and Torres Strait Islander children from entering OOHC. Examples provided by the Department included health strategies, housing plans, a domestic and family violence framework for action, mental health and wellbeing services, and the Skilling Queenslanders for Work program. However, it was unclear from the examples given whether these were initiated in this reporting period or were ongoing. Sector leaders noted the need to improve the cross-sector application of the *Our Way* strategy, the Child Placement Principle and the *Human Rights Act 2019* (Qld), particularly with regard to health, housing, education and justice.

²² Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships (DSDSATSIP) (2021) *Attachment to Queensland's 2021 Closing the Gap Implementation Plan – Government Initiatives*. Available at: www.dsdsatsip.qld.gov.au/resources/dsdsatsip/work/atsip/reform-tracks-treaty/closing-gap/closing-gap-implementation-plan-attachment.pdf

²³ The Department's 2020-21 submission to SNAICC.

²⁴ SNAICC (2021) *Reviewing implementation of the Aboriginal and Torres Strait Islander Child Placement Principle (2020)*. Available at: <https://www.snaicc.org.au/reviewing-implementation-of-the-aboriginal-and-torres-strait-islander-child-placement-principle-2020/>

²⁵ QATSI CPP (2022) *HALT: A Promising Practice Case Study*. Available at: <https://coe.qatsicpp.com.au/halt-collective-a-promising-practice-case-study/>

Partnership

During the reporting period, changes were made to the *Family and Child Commission Act 2014* (Qld). The Act now makes it compulsory to have at least one Aboriginal or Torres Strait Islander person participate in decisions or reviews relating to an Aboriginal and Torres Strait Islander child's death in connection with the child protection system. This change ensures that Aboriginal and Torres Strait Islander representatives are included in accountability and decision-making processes.

Additionally, and as noted in the *Prevention* section, legislation has been co-designed and implemented to allow the functions and powers of the Department's Chief Executive of Child Safety to be delegated to an Aboriginal and Torres Strait Islander Chief Executive of an Aboriginal and Torres Strait Islander entity, in relation to Aboriginal and Torres Strait Islander children in need of protection.

The second action plan of the *Our Way* Strategy recognises and promotes ACCO participation in all significant decision-making, commits the government to genuine partnership in co-design of legislation and policy, and prioritises improvement of ACCOs' capacity to both participate in decision-making and deliver services. While this action plan was addressed in the 2020 Child Placement Principle review, it was released in this reporting period (May 2021). Some actions are also worth highlighting to demonstrate Queensland's continued efforts to embed the Child Placement Principle and enhance partnerships between the Department and ACCOs. These key actions are illustrated in the table below and several are discussed throughout this review, including the *Family Participation Program*, the *QATSICPP Professional Scholarship Program*, and the *Aboriginal and Torres Strait Islander Family Caring for Family Kinship Program*.

20-year Strategy — <i>Our Way: A Generational Strategy for Aboriginal and Torres Strait Islander Children and Families 2017-37</i>	
Action Plan 2 — <i>Changing Tracks: an action plan for Aboriginal and Torres Strait Islander Children and Families 2020-2022</i>	
Key actions for improving partnership between Government and ACCOs	
Action 1.1	<i>Enhance community-controlled Aboriginal and Torres Strait Islander Family Wellbeing Services, with a focus on youth justice and domestic and family violence.</i>
Action 2.1	<i>Implement delegated authority to permit one or more of the chief executive's functions or powers under the <i>Child Protection Act 1999</i> (Qld) in relation to an Aboriginal or Torres Strait Islander child to be delegated to the chief executive officer of an Aboriginal or Torres Strait Islander entity to authorise the CEO to make decisions for the child in relation to those matters.</i>
Action 2.2	<i>Embed the AFLDM across the child protection continuum to ensure culturally safe responses to child protection matters – through the <i>Family Participation Program</i>.</i>
Action 3.2	<i>Implement the <i>QATSICPP Professional Scholarships Program</i> to improve the quality of family services provided by community-controlled services.</i>

Action 3.3	<i>Embed active efforts to implement and give full effect to all five elements of the Child Placement Principle across legislation, policy, programs, processes and practice relating to the family support system.</i>
Action 3.4	<i>Partner with QATSICPP to develop and implement an Aboriginal and Torres Strait Islander Kinship Program, inclusive of relevant services, that connects children in care with kin and Aboriginal and Torres Strait Islander culture; enables and supports kin to care for children to prevent ongoing statutory intervention; enables children who require ongoing statutory intervention to be cared for by kin wherever possible and safe to do so.</i>
Action 3.6	<i>Enact legislation providing legal recognition to Torres Strait Islander families' traditional child rearing practice – to acknowledge the importance of culture and cultural decision-making processes in Torres Strait Islander community and family life.</i>
Action 4.1	<i>Continue to support the Queensland First Children and Families Board</i>
Action 4.3	<i>Evaluate the Changing Tracks action plan 2017-2019 to measure the change (impact) in the lives of children and families as a result of the initiatives in Changing Tracks 2017-2019.</i>
Action 4.4	<i>Develop annual progress reports to ensure the strategy and action plans are responsive to the needs of the Queensland Government and community to reflect the Family Matters Queensland partnership.</i>
Action 4.5	<i>Support Our Way partners in the call for a national Aboriginal and Torres Strait Islander children's strategy, overseen by an independent national Aboriginal and Torres Strait Islander Children's Commissioner.</i>

The Department is the primary funder of the state's peak body, QATSICPP, which represents, advocates for, and supports Aboriginal and Torres Strait Islander child protection and family support services in Queensland. The peak works closely with Department staff and leadership to advocate for reforms that will benefit Aboriginal and Torres Strait Islander children, families and communities. It also provides strategic and practical advice to the Department and other government agencies through its participation in the governance of reforms, and co-design and co-production of significant projects, programs and policies that impact Aboriginal and Torres Strait Islander children and families.²⁶

Over this reporting period, the Queensland Government partnered with QATSICPP to:

- discuss how Aboriginal and Torres Strait Islander pregnant women could receive support in culturally safe environments. No further information was provided by the Department in their submission, including about costs, timeframes, activities or locations;
- implement legislation that allows delegations in relation to Aboriginal and Torres Strait Islander children in need of protection (as discussed above). This is being overseen by the Queensland First Children and Families Board and is being run in partnership with ACCOs in two early adopter locations – REFOCUS Aboriginal and Torres Strait Islander Corporation (Sunshine Coast) and Central Queensland Indigenous Development (Rockhampton). This enabled four children to be reunified with their parents in safe and stable placements and the

²⁶ QATSICPP (2022) *Our Partnership*. Available at: www.qatsicpp.com.au/about-us/our-partners

Department reported that work was continuing towards reunifying five other children with their families;

- develop a strategic blueprint for scaling up the state-wide implementation of delegated authority; with nine instruments of delegation approved by 30 June 2021;
- develop and trial a standalone Aboriginal and Torres Strait Islander kinship care model, *Family Caring for Family*, from 2021-23. Refer to Action 3.4 in the table above;
- trial other initiatives that aim to increase the rates of Aboriginal and Torres Strait Islander children to be placed with family and supported by ACCOs. However, no further information was provided by the Department on this point; and
- design and implement the review of permanency for over 1,000 children under the age of three years.

The Government also engaged the Queensland First Children and Families Board for the following:

- Overseeing the co-design and implementation of the delegation legislative provision discussed above.
- Providing guidance on the Department's continued investment to ACCOs for culturally responsive child protection services.
- Commissioning reforms to repurpose the Department's investment to ACCOs for the delivery of culturally responsive child and family support services, with a focus on the care system for children unable to live with their parent and/or families.

The Department continued to fund the *Family and Child Connect* program,²⁷ which recognises the importance of family in relation to the wellbeing of a child and provides information and advice to people seeking assistance for children and families where there are concerns about wellbeing. Some of these programs are delivered by both ACCOs and non-Indigenous organisations. The Aboriginal and Torres Strait Islander centres that participated in the program in 2020-21 included: the Aboriginal and Torres Strait Islander Community Health Service Brisbane; Kurbingui Youth Development Ltd.; Girudala Community Cooperative Society Ltd.; Kummara Association, and Warringu Aboriginal and Torres Strait Islander Corporation Cairns. These *Family and Child Connect* partnerships aim to deliver culturally safe and respectful support in culturally appropriate spaces for Aboriginal and Torres Strait Islander clients.

The Department also reported that its Permanency Practice Kit had been updated with two additional sections: *reunification* and *concurrent case planning*. Updates to practice guidance were also underway in relation to practice panels, with a focus on including at least two Aboriginal and Torres Strait Islander people in decision-making processes for Aboriginal and Torres Strait Islander children. When a child is under three years of age, multiple Aboriginal and Torres Strait Islander voices are required 'at the table', including an external representative from an ACCO, as this strengthens the weight placed on cultural considerations in case reflection processes. A number of regions were also using separate panel processes to review the safe care and connection of Aboriginal and Torres Strait Islander children.

Finally (and as noted in *Prevention* above), the Department reported that 20.6% of its funding to family support services and 35.9% of its funding to intensive family support services was invested in ACCOs. While this is a positive step, Aboriginal and Torres Strait Islander children made up well over

²⁷ Family and Child Connect (2023) *Family and Child Connect* Webpage. Available at: www.familychildconnect.org.au

40% of the total number of children in OOHC, so there is still a significant discrepancy between these proportions (particularly for non-intensive family support services). In 2020-21 the Department reported that 0.8% of funding for OOHC services was directed to ACCOs.²⁸ Sector leaders noted that it is crucial to achieve proportional investment in ACCOs to ensure that at-risk Aboriginal and Torres Strait Islander children receive Aboriginal and Torres Strait Islander-led support.

Placement

In this reporting period, an amendment was made to the state's *Child Protection Act 1999* (Qld), which pushed 'placement with a non-Indigenous carer or in a residential setting' down the placement hierarchy in relation to placing Aboriginal and Torres Strait children in home-based care.

Just 21.7% of Aboriginal and Torres Strait Islander children in OOHC were placed with Aboriginal and Torres Strait Islander relatives or kin.²⁹ This is well below the national average of 31.3%.³⁰ A further 17.0% of Aboriginal and Torres Strait Islander children in OOHC were placed with non-Indigenous relatives and 11.9% with other Aboriginal and Torres Strait Islander carers.³¹ Finally, 35.6% of Aboriginal and Torres Strait Islander children in OOHC were placed with non-Indigenous carers who were not relatives or kin, and 13.7% were placed in residential care or group homes.³² The Department also reported that its *Finding Kin Outcome-Based Payment* initiative led to an estimated 17 Aboriginal and Torres Strait Islander children and young people being transferred from residential care to placements with family as of 30 June 2021.

The very low rate of children being placed with Aboriginal and Torres Strait Islander kin stands in contrast to relevant state policies and programs, such as the Department's *Family Participation Program* (which requires that reasonable efforts are undertaken to ensure that the voices and choices of families and children are centred to place Aboriginal and Torres Strait children with Aboriginal and Torres Strait Islander communities, and is discussed further in the [Participation](#) section below).

As reported in the 2020 Child Placement Principle review, the Department's *Supporting Families Changing Futures 2019-23* strategy has a particular focus on addressing the disproportionate representation of Aboriginal and Torres Strait Islander families and children in the child protection system. This strategy reinforces the legislative requirement to uphold the Child Placement Principle by emphasising adherence to the placement hierarchy and continuing review of lower-priority placements. While there were no significant changes to the strategy in this reporting period, it continued to be implemented and have funding allocated through state budgets.

The Department noted that it has implemented a range of initiatives to address low rates of placement with Aboriginal and Torres Strait Islander kin, such as foster carer recruitment campaigns (to increase the number of available Aboriginal and Torres Strait Islander foster carers) and the development of an investment policy around placement funding (which increases the proportion of placement funding that will support Aboriginal and Torres Strait Islander kinship care services). The

²⁸ DCYJMA report to inform this review.

²⁹ Steering Committee for the Review of Government Service Provision, Productivity Commission (2022) *Report on Government Services – Chapter 16 – Child Protection*, Table 16A.22. Available at: www.pc.gov.au/research/ongoing/report-on-government-services/2022/community-services/child-protection

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

Department also reported having supported regional kin-finding activities by redesigning family-based care investment specifications, including by separating kinship care and foster carer service types and the related service activities. Nonetheless, the Department cited challenges in attracting enough Aboriginal and Torres Strait Islander carers to meet the volume of Aboriginal and Torres Strait Islander children requiring placement.

Participation

As outlined in the 2021 *Family Matters* report, the legislated right to participation in the context of child protection decision making varies across jurisdictions. Queensland's legislation remains the most comprehensive, particularly in meaningfully supporting the participation of Aboriginal and Torres Strait Islander children, families and communities.³³

Queensland's second Action Plan for the *Our Way* Strategy and the Department's *Supporting Families Changing Futures 2019-23* strategy provide for culturally safe FGC, mediation and/or other participation, as supported and delivered by ACCOs. The Action Plan includes Action 2.2. which 'aims to provide a culturally safe way to support parents, families and children to participate in child protection decisions (through an independent person, entity or program)'. At the same time, *Supporting Families Changing Futures* expressly recognises the need to ensure that Aboriginal and Torres Strait Islander peoples and organisations participate in, and have control over, decisions that affect their children.

During the reporting period, the Queensland Government worked towards implementing Child Safe Standards and a reportable conduct scheme across the state. As the lead agency on behalf of the Queensland Government, the Department undertook a consultation process in early 2021 (including consultations with its internal First Nations Council, the Queensland Indigenous Family Violence Legal Service and the Aboriginal and Torres Strait Islander Legal Service) to determine how cultural safety could best be embedded into models of regulation and oversight of these child safe standards and the National Principles for Child Safe Organisations. A roadmap for the design and delivery of a preferred model for Child Safe Standards was endorsed by the Department, with the roadmap including the development of an Action Plan that will embed the National Principles for Child Safe Organisations. This includes the second principle – *children and young people are informed about their rights, participate in decisions affecting them and are taken seriously*.

In the reporting period, the Queensland Government allocated \$14 million to the *Family Participation Program* to deliver AFLDM, which has been running since November 2018 and is referenced in the *Changing Tracks 2* action plan's Action 2.2. The *Family Participation Program* focuses on Aboriginal and Torres Strait Islander families with children and young people under the age of 18 years who are the subject of child protection notifications or who are already involved in the statutory child protection system. Its primary principle is 'that Aboriginal and Torres Strait Islander peoples have the right to self-determination',³⁴ and it aims to give effect to the five elements of the Child Placement Principle. The program aims to enable Aboriginal and Torres Strait Islander children, young people, parents and families to participate in significant decision-making

³³ Family Matters (2021) *The Family Matters Report 2021*, p. 18. Available at: www.familymatters.org.au/wp-content/uploads/2021/12/FamilyMattersReport2021.pdf

³⁴ Queensland Department of Child Safety, Young and Women (January 2019) *Family Participating Program Factsheet*. Available at: www.cyjma.qld.gov.au/protecting-children/child-family-reform/meeting-needs-requirements-aboriginal-torres-strait-islander-children-families-communities/family-participation-program

related to child protection matters.³⁵ The Department noted in its submission to this review that its investment has already seen positive outcomes for children, including remaining safely with their families. No specific data was provided, including about how many families accessed the program. Sector leaders have called for investment to align with demand for services given the positive outcomes this program achieves.

With FPPs not being funded to support all eligible families, the Department continued to support Collaborative Family Decision-Making (CFDM) across the state and across the child protection continuum. The operation of this CFDM mechanism involves recruiting internal and external Aboriginal and Torres Strait Islander convenors to assist in the placement of Aboriginal and Torres Strait Islander children, while the views of the child, parents, and family members are considered by decision-makers. As stated on the program's website, authority is given to parents, families and children to work together to solve problems and lead decision-making in a culturally safe space. Children, their parents and their extended family members also have the right to participate in relevant administrative or judicial processes.³⁶

Connection

The Child Placement Principle's *Connection* element aims to ensure that Aboriginal and Torres Strait Islander children engaged with child protection systems – particularly those living in OOHC – are supported to maintain or re-establish connections to their family, community, culture and Country. This is especially important for children placed with non-Indigenous carers, to ensure that they do not endure the same loss of identity and dislocation from family and community as the Stolen Generations.

A key method of advancing the *Connection* element is by safely reunifying Aboriginal children with their families. Accordingly, reunification should always be the primary goal where possible and safe. The likelihood of achieving reunification is heavily influenced by permanency planning³⁷ requirements in legislation, policy and practice, so decisions relating to permanency of care should not cause harm by severing the potential for Aboriginal children to maintain their cultural connections in the future. In 2020-21, 12.7% of eligible Aboriginal and Torres Strait Islander children in OOHC in Queensland were reunified with their families (noting that children on long-term orders, including long-term custody, guardianship and third-party parental responsibility orders, are not eligible for reunification). This represented an increase from 12.1% in 2019-20, but kept the state below the national average of 16.4% in 2020-21.³⁸

At 30 June 2021, 66.6% of Aboriginal and Torres Strait Islander children in OOHC in Queensland were living under long-term finalised care and protection (guardianship, custody or third-party parental responsibility) orders.³⁹ This was the second-lowest proportion nationwide (above only Victoria, at

³⁵ Ibid.

³⁶ Ibid.

³⁷ 'Permanency planning' refers to legislation, policy and practices that prioritise stability and long-term attachments for children in out-of-home care. Typically, permanency planning identifies reunification as the first priority; however, where reunification is identified as not possible within a specified timeframe, efforts are directed to securing permanent care and protection orders or (less frequently) adoptions, which effectively remove children from their parents until the age of 18. Aboriginal and Torres Strait Islander people have raised concerns that these measures often prioritise legal permanency, and a narrow construct of attachment theory (pursuing a continuous attachment to a single carer/household), over the importance of kinship relationships and cultural identity development for Aboriginal and Torres Strait Islander children.

³⁸ AIHW (2022) *Aboriginal and Torres Strait Islander Child Placement Principle Indicators*, Supplementary Data Tables, Table S2.3a.

³⁹ AIHW (2022) *Child Protection Australia*, Supplementary Data Tables, Table S4.10.

66.2%) however, given the concerns noted above regarding permanent placements, it is still concerning high.⁴⁰ The Department reported that efforts were underway to improve permanent care practice, with its Adoptions and Permanent Care branches working to recruit Aboriginal and Torres Strait Islander assessors. These assessors will be able to undertake assessments of prospective guardians for permanent care orders or long-term guardianship orders.

Further to this, the guardianship assessment template was being revised to include a stronger focus on the Child Placement Principle. The Department expected these updates (including to the state's Adoption Practice Manual) to continue through the next reporting period and reported that related information resources are to be developed and made available for Aboriginal and Torres Strait Islander children, young people, their families, communities, carers and other stakeholders.

Aboriginal and Torres Strait Islander sector leaders saw these developments as a direct response to legislative amendments in the *Child Protection and Other Legislation Amendment Bill 2020* (Qld) (the Bill) that included adoption as a permanency option (albeit as the last preference) for Aboriginal and Torres Strait Islander children. This was introduced despite strong opposition from Aboriginal and Torres Strait Islander leaders and a wide range of non-Indigenous supporters during consultations on the Bill.⁴¹

The number of Aboriginal and Torres Strait Islander children adopted from OOHC in the reporting period was not reported by the Department.

A promising change in legislation was the passage of the MOKK Act in September 2020. Under Ailan Kastom child rearing practice, 'a child's biological (birth) parents may agree for another couple (the culture parents) within their extended family to permanently raise their biological child as the culture parent's own'.⁴² This practice has been followed by generations of Torres Strait Islander families, raising children in supportive and loving extended families. It is part of the unique, ancient, integral and enduring culture that exists within Torres Strait Islander communities.

Under this new legislation, if anything were to happen to their birth parents (such as death, serious illness, or imprisonment), children with cultural recognition orders are able to remain with their cultural parents, allowing them the continuity of being raised within their family and community. Recognition of this practice – and recognition of the cultural parents of children raised with Ailan Kastom – ensures that a child who has been raised in accordance with the practice will benefit by having their legal identity reflect their cultural identity. The MOKK Act therefore establishes 'a process for making applications for, and decisions about, the legal recognition of the cultural practice'.⁴³ Under this Act, a Commissioner for *Meriba Omasker Kaziw Kazipa* (and an Office of the Commissioner) are to be established, with the Commissioner to be empowered to make cultural recognition orders that permanently transfer a Torres Strait Islander child's parentage from the birth parents to the cultural parents.⁴⁴ The MOKK Act also expands the definition of family, as recognised on a legal level, allowing more opportunities for a child to remain with a relative, family member, or

⁴⁰ Ibid.

⁴¹ For example, see Australian Association of Social Workers (2021) *Grave Concerns Over Passage of Child Protection and Other Legislation Amendment Bill 2020 (QLD)*. Available at: <https://www.aasw.asn.au/news-media/2021/grave-concerns-over-passage-of-child-protection-and-other-legislation-amendment-bill-2020-qld>

⁴² Legal Aid Queensland (2021) *Ailan Kastom child rearing practice in Torres Strait Islander families* webpage. Available at: www.legalaid.qld.gov.au/Find-legal-information/Relationships-and-children/Children-and-parenting/Ailan-Kastom-child-rearing-practice-in-Torres-Strait-islander-families

⁴³ DSDSATP (2021) *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practices) Act 2020 – Factsheet*. Available at: www.dsdsatsip.qld.gov.au/resources/dsdsatsip/work/atsip/family-social/meriba-omasker/meriba-omasker-overview-act.docx

⁴⁴ Ibid.

cultural community. It also amends the *Adoption Act 2009* (Qld) and promotes the continuity of community in a child's life.

As addressed in the [Placement](#) section above, the *Child Protection Act 1999* (Qld) was also amended in this reporting period to allow for the transfer of statutory powers and functions to a Chief Executive of an ACCO for Aboriginal and Torres Strait Islander children in certain situations (rather than the Chief Executive of the Department, as is standard guardianship practice). SNAICC's Child Placement Principle resources advocate for governments to enable such 'delegation of authority' because ACCOs typically have stronger connections and more trusting relationships with a child's kin and community, as well as a stronger understanding of a child's cultural needs, and can therefore better support children to maintain their family, community and cultural connections. As such, this legislative reform is another promising step.

The *Family Participation Program* – funded by the Department and discussed in [Participation](#) above – also recognises a child's right to enjoy culture, connection with community and the child's right to remain in contact with their family. The program website states that the program encourages 'public visibility of Aboriginal and Torres Strait Islander culture and how that enhances Aboriginal and Torres Strait Islander people's sense of belonging and celebration in a place, managing risk and making a commitment to do no (more) harm'.⁴⁵

The Queensland *Wellbeing Outcomes Framework* emphasises the importance of maintaining and developing connections to family, community, culture and Country. The framework recognises that a connection to kin, Country and culture must exist in order for wellbeing to exist – a safe and loving environment which supports the teaching of culture is essential to wellbeing.

As noted by the Queensland Family Matters Working Group in the 2021 *Family Matters Report*, collective decision-making mechanisms such as HALT (see [Prevention](#) section above) have enhanced cultural integrity, planning and decision-making. The group notes that 'this has been achieved through ACCOs and community leaders working with the Department at the point of a child coming to the attention of the child protection system' and the group recommends 'implementing similar localised models across the state, particularly to respond to concerns for unborn babies and for young people on dual orders and living in detention centres'.⁴⁶

Moreover, 95.4% of Aboriginal and Torres Strait Islander children in OOHC who were required to have a current cultural support plan – as set out in sections 5C, 6AA, 51B and 51C of the *Child Protection Act 1999* (Qld) – did so.⁴⁷ This is a promising statistic and well above the national average of 73.4%.⁴⁸ However, this data does not indicate the quality of these plans, including whether plans are implemented and are meeting the children's cultural needs and enabling each child's connection to culture, or whether the plans are merely a 'ticked box' in each child's file. The Child Placement Principle also requires cultural care plans to be developed, resourced and implemented for every child; none of which is evident in data that only indicates that these plans exist.

⁴⁵ Queensland Department of Child Safety, Young and Women (May 2022) *Family Participation Program*. Available at: <https://cspm.csyw.qld.gov.au/practice-kits/safe-care-and-connection/participation-in-planning-and-decision-making/seeing-and-understanding/family-participation-program>

⁴⁶ Family Matters (2021) *The Family Matters Report 2021*, p. 49. Available at: www.familymatters.org.au/wp-content/uploads/2021/12/FamilyMattersReport2021.pdf

⁴⁷ Aboriginal and Torres Strait Islander Child Placement Principle Indicators, Supplementary Data Tables (2022) Table S2.2a.

⁴⁸ Ibid.