

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



SNAICC
National Voice for our Children

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Acronyms and abbreviations

ACCO	Aboriginal and Torres Strait Islander Community-Controlled Organisation
ACIST	Aboriginal Cultural Identity Support Tool
AFSS	Aboriginal Family Support Services
AFLDM	Aboriginal Family-Led Decision Making
Anangu Pitjantjatjara Yankunytjatjara	APY
Child Placement Principle	Aboriginal and Torres Strait Islander Child Placement Principle
Commissioner	Commissioner for Aboriginal Children and Young People
CFSS	Child and Family Support System (DHS)
DCP	Department for Child Protection
DHS	Department of Human Services
FGC	Family Group Conferencing
KWY	Kornar Winmil Yunti Aboriginal Corporation
NPY Women’s Council	Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women’s Council
OOHC	Out-of-home care
RASA	Relationships Australia (South Australia)
RATSIO	Recognised Aboriginal or Torres Strait Islander Organisation
SA	State of South Australia

SAACCON	South Australian Aboriginal Community Controlled Organisation Network
Safe and Well	Safe and Well: Supporting Families, Protecting Children whole-of-state-government child protection strategy

Introduction

This report reviews the progress of the South Australian Government, primarily through the Department for Child Protection (Department), in implementing the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle (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 past 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* (ROGS)³. OOHC figures in this review comprise 'out-of-home care' and 'other supported care' data from chapter 16 of ROGS. Data on 'children of unknown Indigenous status in out-of-home care' have not been included in this review's figures.

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; and 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 (Steering Committee).

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* (the National Agreement), 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*, expects to go further by embedding a stronger focus on and promoting and enabling full implementation of the Child Placement Principle.

Overview

Prevention: The South Australian Government's whole-of-government child protection strategy, *Safe and Well: Supporting Families, Protecting Children*, included a major commitment to reforming the family support service system by prioritising prevention and earlier intervention. In 2020-21, 9.78% of child protection funding was spent on family support and intensive family support services.⁴ This reflects a slight increase (of about 1.2%) from 2019-20, but still places South Australia second last among jurisdictions for the proportion of expenditure invested in prevention. More promisingly, there was a significant increase in the proportion of children who are Aboriginal⁵ commencing intensive family support services, from 30.2% in 2019-20 to 36.3% in 2020-21. This proportion is now equal to the proportion of children in care who are Aboriginal (36.2%).

At 30 June 2021, Aboriginal children in South Australia were just over 11 times as likely to be living in OOHC as their non-Indigenous peers – a slight increase over last year's rate of 10.8.⁶ The proportion of all Aboriginal children in South Australia who were in OOOHC on 30 June increased from 8.5% in 2019-20 to 9.3% in 2020-21.⁷

⁴ Ibid Table 16A.8.

⁵ References to Aboriginal people refer to Aboriginal and Torres Strait Islander people.

⁶ SNAICC (2021) *Reviewing Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle*. Available at www.snaicc.org.au/wp-content/uploads/2021/03/Reviewing-Implementation-of-the-ATSICPP_2020_SA.pdf

⁷ Steering Committee, n 3, Table 16A.20.

Partnership: The South Australian Department of the Premier and Cabinet's *Aboriginal Affairs Action Plan 2021-22* contained the Department for Child Protection's (DCP) commitment to provide funding for an Aboriginal-led process to establish a South Australian peak body for Aboriginal children and young people. This was in response to longstanding advocacy on this issue by Aboriginal community members and the state's Commissioner for Aboriginal Children and Young People (Commissioner).⁸ SNAICC was funded to facilitate this process by leading engagement with Aboriginal communities and organisations across South Australia. DCP has committed to provide recurrent funding for the peak body.

The Department of Human Services (DHS) and DCP invested in several new or increased funding partnerships with ACCOs in 2020-21, including for family support services, family group conferencing (FGC), kinship carer support, and reunification services.⁹ The proportion of DCP's budget invested with Aboriginal businesses increased from 6.35% in 2019-20 to 7.8% in 2020-21.¹⁰ DHS exempted ACCOs from competitive tendering requirements in intensive family support services recommissioning (enabling them to negotiate funding proposals directly with DHS).¹¹ However, many key services to Aboriginal children and families are still provided by non-Indigenous organisations.

Placement: At 30 June 2021, 61% of Aboriginal children in OOHC were living with family, kin or other Aboriginal carers – a slight increase on 2019-20 (60.2%).¹² This proportion remains below the average of all jurisdictions (63.8%) and lags substantially behind Victoria (80.6%) and New South Wales (72.4%). Further, the proportion of Aboriginal children placed with non-Indigenous family or kin increased from 21.8% to 23.6%. Acknowledging that some caution needs to be applied when interpreting these figures due to changes in counting rules and definitions over time, the proportion of children placed with *all* Aboriginal carers also fell from 38.5% in 2019-20 to 37.4% in 2020-21 (below the national average of 41.6%). This continues an extremely worrisome trend of this proportion decreasing by more than 30 percentage points since 2006-07.¹³ Finally, South Australia continued to record the second-highest proportion of Aboriginal children in residential care or group homes of any jurisdiction (13.7% – exceeded only by Queensland, at 13.8%); though this proportion has been decreasing for several years.¹⁴

Participation: The second year of the Ngartuitya Family Group Conferencing program, operated by Relationships Australia (SA) (RASA), yielded promising results. This included achieving the target of 40% of all FGC to support Aboriginal children and young people, and agreements resulting from FGC satisfactorily managing all risks for 86.4% of participating Aboriginal families (with the child or children remaining in the care of their families). While Aboriginal staff members at RASA and other

⁸ South Australian Commissioner for Aboriginal Children and Young People (2019) *'Be Seen. Be Heard. Flourish.'* *What Matters to Aboriginal Children and Young People, their Families and Communities (Inaugural Report)*. Available at <https://cacyp.com.au/wp-content/uploads/2020/05/South-Australias-Commissioner-for-Aboriginal-Children-and-Young-People-Inaugural-Report-December-2019.pdf>

⁹ South Australian Government response to inform this review.

¹⁰ Ibid.

¹¹ Ibid.

¹² Steering Committee, n 3, Table 16A.22. Note that *Safe and Well: Supporting families, protecting children 2021 Annual Report* (available at <https://www.childprotection.sa.gov.au/documents/report/safe-and-well/safe-and-well-2021-annual-report.pdf>) states that a slightly higher proportion of Aboriginal children were placed in accordance with the Placement hierarchy in both 2019-20 and 2020-21. The variation is likely a result of using different definitions to those applied in the ROGS

¹³ Ibid.

¹⁴ Steering Committee, n 3, Table 16A.22.

consultants contributed to the design and delivery of the Ngartuitya program, it was not designed, developed or delivered by an ACCO, and therefore falls short of the necessary criteria to implement the Participation element of the Child Placement Principle. In April 2021, further funding was committed to RASA to pilot a new FGC program for unborn child concerns with a focus on Aboriginal families. DCP also provided \$151,000 of dedicated funding (which will be recurrent) to Aboriginal Family Support Services to launch an Aboriginal-led FGC service, commencing in April 2021.

DCP is developing a new Aboriginal Family-led Decision-making Framework (AFLDM) aimed at promoting self-determination for Aboriginal families. The Framework was developed by DCP by and in consultation with Aboriginal employees and with oversight from DCP Aboriginal governance. However, the Commissioner commented that she did not see evidence of broad consultation or partnership with other Aboriginal community members in its design.

Connection: South Australia's proportion of eligible Aboriginal children reunified with their families from OOHC in 2020-21 was 9.9% (noting that children on long-term orders, including long-term custody, guardianship and third-party parental responsibility orders, are not eligible for reunification).¹⁵ While this represented the third-lowest reunification rate in the country, and was below the national average of 16.4%, it was an increase on the 2019-20 reunification rate (7.0%).¹⁶ DCP invests in reunification services and supports through nine providers, including two ACCOs. A total of \$57.4 million is being invested over nine years via agreements with these nine providers. DCP has also launched a new non-Aboriginal-specific reunification program through Uniting Communities (the 'New Parent and Infant Network', or NEWPIN, program).

The *Children and Young People (Safety) Act 2017 (SA)* sets out a requirement for timely decision-making in respect of placements, in order to promote permanence and stability.¹⁷ Concern has been expressed that this has led DCP to focus on transitioning children and young people into permanent guardianship orders. In 2020-21, South Australia had the third-highest proportion nationwide of Aboriginal children on finalised long-term orders – 86.5% of all Aboriginal children on care and protection orders – behind only New South Wales (92.4%) and the Australian Capital Territory (88.5%). However, DCP has achieved significant improvements in the proportion of Aboriginal children in care who have a completed Aboriginal Cultural Identity Support Tool – from 56.5% in 2019-20 to 92.7% in 2020-21.

Prevention

The Child Placement Principle's *Prevention* element aims to ensure that Aboriginal children grow up healthy, safe, and within their own family and community. Features of this element are broad and can include addressing social determinants of health, organisational reforms to address institutional racism, or targeted early interventions aimed at supporting families and preventing children from entering the child protection system. This means that – in all jurisdictions – most government departments have a role to play in *Prevention*. In South Australia, intensive family support services are administered through DHS' Child and Family Support System, or CFSS, and the tertiary child

¹⁵ Australian Institute of Health and Welfare (2022) *The Aboriginal and Torres Strait Islander Child Placement Principle Indicators – Supplementary Data Tables*, Table S2.3b (AIHW).

¹⁶ Ibid.

¹⁷ *Children and Young People (Safety) Act 2017 (SA)* s 10.

protection system is administered by DCP. Accordingly, this review covers the direct actions of both departments, while encouraging stakeholder input on cross-government prevention efforts.

While the South Australian Government asserts that it is committed to implementing active efforts to reduce the overrepresentation of Aboriginal children and young people in the child protection system and embed the core elements of the Child Placement Principle across the system,¹⁸ there is limited evidence of substantive change. The DCP *Aboriginal Action Plan 2020-21* had committed to drafting and consulting on amendments to the *Children and Young People (Safety) Act 2017 (SA)* to embed all five elements of the Child Placement Principle. While a Bill was drafted and passed the lower house, it lapsed due to the proroguing of the South Australian Parliament for the State election. As identified by the Commissioner, the Bill was informed by a restricted consultation process. Consultation was limited to select stakeholders, including only targeted Aboriginal community organisations.

The *Children and Young People (Safety) Act 2017 (SA)* requires a full review of the legislation to be undertaken before the fifth anniversary of its commencement. Consultation with Aboriginal communities and key Aboriginal stakeholders will be undertaken as part of this review, which will consider how the legislation could fully embed the Child Placement Principle to the standard of active efforts. Whilst this consultation process is not genuine partnership with Aboriginal communities,¹⁹ it nonetheless is a step towards implementing the South Australian Government's commitments under *Safe and Supported: The National Framework for Protecting Australia's Children 2021–2031*.

The South Australian Government emphasised its commitment to those legislative reforms in its first *Closing the Gap Implementation Plan* (released after the end of the period covered by this Implementation Review). This plan also commits DCP and DHS to the development of a strategy for reducing the overrepresentation of Aboriginal children and young people in OOHc under Target 12 of the *National Agreement on Closing the Gap*.

Meanwhile, legislation to embed the powers and functions of the Commissioner (whose role had previously been created by an executive order and thus did not have statutory permanency) *did* pass the Parliament in September 2021, which is a positive outcome for Aboriginal children, families and communities. The Commissioner is independent of the Crown and the Commissioner for Children and Young People (SA) and works to uphold and promote the rights of Aboriginal children and young people in South Australia and address systemic issues impacting on their rights and wellbeing. For example, the Commissioner has committed to conducting an Inquiry into the implementation of the Child Placement Principle in South Australia.

At 30 June 2021, Aboriginal children in South Australia were just over 11 times as likely to be living in OOHc as their non-Indigenous peers.²⁰ This represents a slight increase over the previous reporting period's rate of 10.8.²¹ The number of Aboriginal children in OOHc increased by almost 9% over the

¹⁸ The Family Matters Campaign (2021) *The Family Matters Report 2021: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia*, p. 53.

¹⁹ As per Joint Council on Closing the Gap (2020) *National Agreement on Closing the Gap*, pp. 6-7.

²⁰ Steering Committee, n 3, Table 16A.2.

²¹ SNAICC (2021) *Reviewing implementation of the Aboriginal and Torres Strait Islander Child Placement Principle*. Available at www.snaicc.org.au/wp-content/uploads/2021/03/Reviewing-Implementation-of-the-ATSICPP_2020_SA.pdf

reporting period (from 1,551 at 30 June 2020 to 1,684 at 30 June 2021).²² The same happened with the proportion of all Aboriginal children in South Australia who were in OOHC on 30 June 2021, increasing from 8.5% to 9.3%, which is the second-highest proportion in the country after Victoria.

More promisingly, there was a significant increase in the proportion of children who are Aboriginal commencing intensive family support services, from 30.2% in 2019-20 to 36.3% in 2020-21.²³ This proportion is now equal to the proportion of children in care who are Aboriginal (36.2%) and slightly exceeds the proportion of child protection substantiations that pertained to Aboriginal children (35.7%), suggesting that equity of access to intensive family support services has improved.

However, the increased proportion of Aboriginal children in OOHC raises questions as to whether these services are effectively targeted and achieving prevention outcomes. If family support services are not delivered by Aboriginal organisations, they are less likely to be effective and culturally safe.²⁴

Reform of the family support service system has been a key priority of *Safe and Well: Supporting Families, Protecting Children* (a whole-of-government child protection strategy released in 2019), with the South Australian government announcing that DHS would lead the co-design of a new Child and Family Support System in partnership with Aboriginal communities and other non-government stakeholders.

Despite the commitments stated in *Safe and Well* and the *CFSS System Reform Strategy* – to increase access to family support and intensive family support services – in 2020-21, only 9.78% of child protection funding was spent on these services.²⁵ While this reflects a slight increase (of about 1.2%) from 2019-20, it still places South Australia as second-last among jurisdictions – ahead of only Western Australia – for the proportion of real recurrent child protection expenditure that is invested in secondary, rather than tertiary, responses.

A promising investment has been the provision of \$2.2 million in funding to Kornar Winmil Yunti Aboriginal Corporation (KWY) to pilot the *Taikurturna Tirra-apintha* OOHC prevention program at its Stronger, Safer Families Western Hub. Designed to work with Aboriginal families in western Adelaide whose children are at imminent risk of being placed in OOHC, this service initially provides a very high level of intensive family support to address immediate safety, followed by high-intensity support to improve family functioning, and guides families' problem-solving skills to prevent removal to OOHC.

However, other Aboriginal sector leaders report that a shortage of overall funding for ACCOs to deliver early intervention and prevention services remains a serious issue. This is despite such funding being central to implementing the *Prevention* element. While the South Australian Government's ongoing CFSS reforms have seen DHS achieve its target of procuring 30% of intensive family support services from ACCOs, contracts for the delivery of crucial services to Aboriginal families are still awarded to non-Indigenous organisations.

For example:

²² Steering Committee, n 3,, Tables 16A.2 and 16A.3.

²³ Ibid Table 16A.34.

²⁴ SNAICC (2019) *The Aboriginal and Torres Strait Islander Child Placement Principle: A guide to support implementation*. Available at: https://www.snaicc.org.au/wp-content/uploads/2019/06/928_SNAICC-ATSICPP-resource-June2019.pdf

²⁵ Steering Committee, n 3,, Table16A.8.

- Funding was granted to RASA to deliver a new program of FGC for unborn child concerns, with a specific focus on supporting Aboriginal mothers and families. This is despite RASA being a non-Indigenous organisation.
- The South Australian Government notes that additional investment was made into the delivery of a similar FGC program by Aboriginal Family Support Services (AFSS), but the quantum of funding – and whether the program was a pilot or to be ongoing – remains unclear.

The previous Child Placement Principle Implementation Review noted that RASA’s broader *Ngartuitya* FGC program (examined in more detail in the [Participation](#) section below) was rarely used preventatively or at the early intervention stage (*before* child removal) in the 2019-20 reporting period.

The frequency of FGC appears to have improved over the following year, although the precise number of Aboriginal families participating in FGC prior to removal is unclear. Family Group Conferences in South Australia are used in three different circumstances for Aboriginal families: during pre-birth planning with the goal of preventing infants from coming into care; as part of intensive family support services with the goal of preventing children from coming into care; and where one or more children are on a protection order with the goal of safe reunification. However, these services are only accessible upon referral from DCP, and making such a referral is not mandatory.

With regards to broader social determinants of contact with the child protection system, the South Australian Government noted the release in the reporting period of the:

- *Aboriginal Housing Strategy 2021–2031*, which includes actions and investments to ensure that Aboriginal families have equitable access to safe, secure and affordable homes; and
- *Mental Health Services Plan 2020–25*, which includes targeted supports to Aboriginal families under Outcome 4 (‘Aboriginal people have access to culturally safe and appropriate initiatives determined by local communities’) and a commitment to invest in an Aboriginal mental health and wellbeing centre.

These compliment other strategies across education, health and youth justice, together with the South Australian Government’s support for the Family Matters campaign. It is promising that the South Australian Government recognises the importance of social determinants such as housing security and mental health in preventing Aboriginal children from entering OOHC, and the need for services to be accessible and culturally safe in order to combat these challenges. However, it is equally important that Aboriginal families feel that they can reach out to these services for help without fearing that they will be subject to a notification of child abuse or neglect, given the continued increase in the number of Aboriginal children removed to OOHC.

Partnership

The *Partnership* element aims to ensure that Aboriginal community representatives are able to participate – with genuine shared decision-making power – in service design, delivery and individual case decisions. The policy document guiding the South Australian government’s key actions under the *Partnership* element is the Department of Premier and Cabinet’s *Aboriginal Affairs Action Plan*

2021-22, launched in March 2021. This Action Plan committed the South Australian government to provide funding towards an Aboriginal-led process to establish a South Australian peak body for Aboriginal children and young people. This was in response to longstanding advocacy on this issue by Aboriginal community members and the Commissioner.²⁶

The first South Australian Closing the Gap Implementation Plan (released after this review's reporting period) reiterated this commitment. The plan also noted that it would take place under Target 12 (*to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45% by the year 2031*) and in support of Priority Reform Two (*building the community-controlled sector*).

In mid-2021, SNAICC was engaged by DCP to lead consultation with South Australia's Aboriginal communities and organisations on the potential design and establishment of a peak body, and to synthesise the results into a set of recommendations for DCP's implementation. These engagements were planned and conducted in partnership with the Commissioner, recognising that the Commissioner has significant relationships with Aboriginal communities across the state and has already undertaken extensive consultations, including on the subject of a potential peak body. The South Australian Government has indicated that the proposed peak body will be a key party in the development of a new strategy for reducing the overrepresentation of Aboriginal children and young people in OOHC. It will be important that this process also includes the South Australian Aboriginal Community Controlled Organisation Network (SAACCON), other relevant ACCOs, and community-based representative structures.

The *Closing the Gap Implementation Plan* also commits DCP to progress amendments to the *Children and Young People (Safety) Act 2017* (SA) (the Act), to enable the delegation of responsibilities for child protection functions to ACCOs where Aboriginal children are concerned. Transfer of statutory authority is a crucial aspect of the *Partnership* element, and this will be an important step for the South Australian government in supporting Aboriginal self-determination.

As noted in the 2020 Child Placement Principle Implementation Review²⁷ and by the Commissioner, the Act currently contains a general provision (section 145), allowing the relevant Minister or Chief Executive to delegate functions and powers – though this provision was not designed specifically to enable delegation to recognised Aboriginal organisations or ACCOs.

A notable feature of South Australia's current Aboriginal community-controlled service landscape is that only one ACCO – AFSS – is currently gazetted as a 'recognised Aboriginal or Torres Strait Islander organisation' (RATSIO) for the purpose of OOHC placement consultations pursuant to section 12(3)(c) of the Act. This is not what was recommended in *The Life They Deserve* (the final report of the 2014–16 Royal Commission on child protection systems). In that report, Commissioner Margaret Nyland advised that it would be difficult for a single organisation to connect effectively with all the diverse and distinct Aboriginal communities in South Australia, and that the South Australian Government should consider funding several RATSIOs, including those with strong local links to specific communities. Legislative reforms around delegated authority will make it all the

²⁶ South Australian Commissioner for Aboriginal Children and Young People (2019) *'Be Seen. Be Heard. Flourish.'* *What Matters to Aboriginal Children and Young People, their Families and Communities (Inaugural Report)*. Available at: <https://cacyp.com.au/wp-content/uploads/2020/05/South-Australias-Commissioner-for-Aboriginal-Children-and-Young-People-Inaugural-Report-December-2019.pdf>

²⁷ SNAICC (2021) *Reviewing implementation of the Aboriginal and Torres Strait Islander Child Placement Principle*. Available at www.snaicc.org.au/wp-content/uploads/2021/03/Reviewing-Implementation-of-the-ATSICPP_2020_SA.pdf

more urgent that this recommendation is implemented: following consultation with the relevant Aboriginal communities, as section 12(8) requires, more ACCOs must be gazetted as RATSIOs for the purpose of exercising delegated child protection functions. RATSIOs must also be adequately and sustainably resourced to carry out these functions.

In the cross-border region where South Australia, Western Australia and the Northern Territory intersect, and the Anangu residents often move between communities in the three jurisdictions, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council (NPY Women's Council) has long reported that the existence of three different child protection systems creates duplication, communication breakdowns, and information-sharing difficulties. A promising step towards better practice in this region is the finalisation of a tristate child protection Memorandum of Understanding between NPY Women's Council and the three governments, which will seek to improve coordination, collaboration and community engagement.

In terms of specific program delivery, the South Australian Government stated that new or increased funding partnerships with ACCOs in the 2020-21 financial year included:

- investing in KWY to design and deliver *Stronger, Safer Families* outreach hubs, to provide culturally safe, holistic, intensive support to Aboriginal families (with children) experiencing domestic violence;²⁸
- investing in SNAICC and other ACCOs to develop a culturally safe, trauma-responsive training program for the child and family support system workforce, and funding South Australian ACCOs to become local providers of this program to both government and community sector child and family support professionals; and
- increased partnerships with ACCOs to deliver kinship carer assessment; support and training (see Placement) FGC (see Participation), and reunification services.

Noting that some of the above programs are funded by DHS, DCP reported that the proportion of its total budget invested with Aboriginal businesses increased from 6.35% in 2019-20 to 7.8% in 2020-21 (though this may include private sector organisations which are not community-controlled). Further, the ongoing recommissioning of intensive family support services by DHS (discussed in Prevention above) has exempted ACCOs from competitive tendering requirements and instead enabled them to negotiate directly with DHS on intensive family support services funding proposals. Non-Indigenous organisations tendering for funding streams that would involve services to Aboriginal children and families are also required to demonstrate how they would implement the new CFSS Aboriginal and Torres Strait Islander system design criteria and co-design principles,²⁹ and how they will partner with ACCOs in delivering those services. DCP has similar provisions across its service specifications.

The Commissioner supported this proactive approach to tendering with ACCOs and commented that all South Australian Government investment in building capacity for ACCOs to deliver services is

²⁸ Note that the *Stronger, Safer Families* outreach hubs have a slightly different service remit to the *Stronger, Safer Families* Western Hub described in this review's *Prevention* section. The Western Hub operates an out-of-home care prevention model, designed for families who are at imminent risk of having a child removed into out-of-home care (whatever the reason for the child protection substantiation). KWY's other outreach hubs focus specifically on families who are experiencing family violence and provide services through a whole-of-family model that aims to both reduce perpetrators' use of violence and support healing for victim-survivors.

²⁹ Discussed in more detail in SNAICC (2021) *Reviewing implementation of the Aboriginal and Torres Strait Islander Child Placement Principle*, pp. 13–14. Available at www.snaicc.org.au/wp-content/uploads/2021/03/Reviewing-Implementation-of-the-ATSI CPP_2020_SA.pdf

welcome – particularly where reunification is concerned, given that South Australia has the lowest rates of Aboriginal child reunification in the country (see Connection section below). However, in her ongoing engagement with ACCOs, the Commissioner heard that these funding streams are still insufficient to meet the level of need.

It was also noted that FGC – while important – is not the same thing as an AFLDM process facilitated by independent community representatives. It also does not advance the *Partnership* element to the same degree.

Finally, as noted in the Prevention section, the South Australian government introduced legislation (which received assent and commenced after this reporting period) to codify the role, powers and functions of the Commissioner. Apart from this role and the Family Matters South Australian Working Group, there are very few resourced roles for Aboriginal community representatives to inform the design of child and family welfare policy and service models at the state level. It is notable that DCP has committed \$200,000 in recurrent (core) funding for the Aboriginal children and families peak body currently in development. However, significant additional funding, including contributions from other relevant South Australian Government agencies, will be critical to the effective operation and success of the peak body.

Placement

Where Aboriginal children have been removed from their families of origin in child protection proceedings, the *Placement* element aims to ensure that they are placed in homes that enable them to maintain the highest possible level of connection to their Aboriginal family, community, culture and Country. This is achieved through the use of a placement ‘hierarchy’ with several levels of family/kin and Aboriginal connections, along with a set of processes that should be followed in applying this hierarchy.

Section 12 of the Act currently provides the statutory regime for the Child Placement Principle in South Australia. This section – which contains *only* the placement hierarchy – provides that the object of the Child Placement Principle is to:

- a) maintain the connection of Aboriginal children and young people with their family and culture, and
- b) enable Aboriginal people to participate in the care and protection of their children and young people, by
- c) encouraging DCP to make decisions about placement in partnership with Aboriginal children and their families.

The South Australian Government highlighted three new measures in the reporting period to support implementation of the *Placement* element. Two of these focus on identifying, assessing, training and supporting kinship carers:

- In June 2020, \$3 million was committed over two years to three ACCOs (AFSS, InComPro and KKY) to provide training for kinship carers and to better support kinship carers to connect with services such as trauma specialists, education and health. Previously, all carer support had been provided through an internal DCP program. This investment therefore recognised that ACCOs are best placed to deliver culturally safe responsive services. DCP noted that, as

at 30 June 2021, 90 children in 60 kinship households were being supported through this program.

- In July 2021 (just after the end of the review period), it was announced that NPY Women’s Council would also receive funding – around \$500,000 over an initial 12-month period – to provide a culturally responsive placement stability service for kinship carers of Aboriginal children and young people in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands.

Kinship carer programs around Australia have demonstrated success in increasing the proportion of children placed with their Aboriginal kin. Thus, these announcements demonstrate a promising commitment to keeping Aboriginal children connected to their family, community and culture.

A commitment was also made to invest \$600,000 to roll out the *Sanctuary Model of Therapeutic Care* across all DCP residential care homes. Delivered by The Sanctuary Institute (attached to MacKillop Family Services) and directly through DCP, this model aims to provide trauma-informed supports to children and young people living in residential care and to embed Aboriginal cultural responsiveness as an integral feature. Within DCP, this model is delivered by specialist residential child protection practitioners (both Aboriginal and non-Indigenous) supported by training from The Sanctuary Institute, and by a Sanctuary Core Team that includes an Aboriginal Sanctuary Practitioner, two Principal Aboriginal Consultants, and an Aboriginal Practice Lead. Though no Aboriginal organisations have yet been involved in the implementation of this model, DCP notes that The Sanctuary Institute employed a specialist Aboriginal Cultural Advisor in the model’s design.

The DCP *Aboriginal Action Plan 2020-21* also flagged that several existing initiatives would continue the Department’s efforts to embed a preference for placements in accordance with higher levels of the Child Placement Principle and encourage continuous review of lower-level placements. These include the implementation of *Every Effort for Every Child: South Australia’s Strategy for Children and Young People in Care 2020-23*³⁰ and the rollout of the Winangay Aboriginal kinship carer assessment tool. This is expected to be achieved by embedding the tool as a key practice element in DCP’s manual for practice, supporting DCP and ACCO staff to undertake training in the use of the tool for carer assessments, and increasing the proportion of Aboriginal carers assessed using the tool.

At 30 June 2021, 61% of Aboriginal children in OOHK were living with family, kin or other Aboriginal carers and were therefore placed in accordance with the *Placement* hierarchy. This was a slight increase on the corresponding proportion in 2019-20 (60.2%).³¹ It is to be hoped that, after two consecutive years of this proportion increasing, the concerning trend of a 12-year decrease has been turned around permanently.³² However, this proportion remains below the average of all jurisdictions (63.8%) and lags substantially behind Victoria (80.6%) and New South Wales (72.4%).

³⁰ Department for Child Protection (2020) *Every effort for every child: South Australia’s strategy for children and young people in care 2020-23*. Available at: www.childprotection.sa.gov.au/_data/assets/pdf_file/0004/135148/Every-effort-for-every-child-February-2020-final.pdf

³¹ Steering Committee, n 3., Table 16A.22. Note that *Safe and Well: Supporting families, protecting children 2021 Annual Report* (available at: www.childprotection.sa.gov.au/documents/report/safe-and-well/safe-and-well-2021-annual-report.pdf) states that a slightly higher proportion of Aboriginal children were placed in accordance with the *Placement* hierarchy in both 2019-20 and 2020-21. The variation is likely a result of using different definitions to those applied in the ROGS.

³² SNAICC (2021) *Reviewing implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: South Australia*, pp. 18–20. Available at www.snaicc.org.au/wp-content/uploads/2021/03/Reviewing-Implementation-of-the-ATSI CPP_2020_SA.pdf

Further, the proportion of children placed exclusively with Aboriginal family or kin (31.2%) showed a slight decrease from 2019-20 (31.5%), while the proportion placed with non-Indigenous family or kin increased more substantially (from 21.8% to 23.6%). The total proportion of children placed with *any* Aboriginal carers also fell from 38.5% in 2019-20 to 37.4% in 2020-21 (several percentage points below the national average of 41.6%) and continues an extremely worrisome trend of this proportion decreasing by more than 30 percentage points since 2006-07.³³ Urgent efforts must be taken to remedy this situation, given that placement with Aboriginal carers helps children to maintain their connection to culture and sense of identity.

Responding to these figures, the Commissioner expressed concern at an apparent lack of genuine active efforts to attempt placement at higher tiers of the hierarchy before non-compliant placement decisions were made. It is the Commissioner's view that the current RATSIO consultation practice (detailed in the Partnership section above) does not fulfill the objective of ensuring that all higher-order placement options have been considered, as the Commissioner's sector consultations have indicated that DCP often consults with the RATSIO only when a matter is before the court and not where placements are made following guardianship orders.³⁴ Further, despite DCP aiming to place Aboriginal children and young people with Aboriginal kinship carers as the first priority where it is safe and appropriate to do so, the Commissioner expressed concern about anecdotal reports that many potential Aboriginal kinship carers are screened out as unsuitable for seemingly arbitrary reasons, including very old criminal records or the size of the carer's existing family.

Finally, SNAICC has consistently raised with all Australian governments that placement in residential care is a *last resort* and should not be widespread. Over the past decade, however, South Australia has consistently placed far too many children in these facilities, and community stakeholders have highlighted the deeply problematic nature of this practice.³⁵ In 2020-21, South Australia recorded the second-highest proportion of Aboriginal children in residential care or group homes of any jurisdiction (13.7% – exceeded only by Queensland, at 13.8%).³⁶ Promisingly, though, it is evident that efforts are being made to transition away from this practice: since peaking at 18.2% in 2016-17, the proportion of Aboriginal children placed in residential care or group homes has decreased every year.³⁷

Participation

The *Participation* element recognises that Aboriginal peoples have the best knowledge about the caring strengths and risks that exist in their own families and communities, and therefore requires that Aboriginal children, parents and family members are able to participate in all child protection decisions affecting them.

The 2020 Implementation Review noted stakeholder concerns regarding a lack of detail in the DCP *Aboriginal Action Plan 2019-20* around enabling the participation of Aboriginal children, their

³³ Ibid.

³⁴ Reported by the Commissioner for Aboriginal Children and Young People for this review. Under the *Children and Young People (Safety) Act 2017* and current practice guidance, consultation is required for all placements and placement changes.

³⁵ The Family Matters Campaign (2021) *The Family Matters Report 2021: Measuring trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia*, p. 52.

³⁶ Steering Committee, n 3, Table16A.22.

³⁷ Ibid.

families and communities in decision-making processes.³⁸ The subsequent *Aboriginal Action Plan (2020-21)* then made a significant commitment under the *Participation* element – to develop a family-led decision-making framework that focuses on Aboriginal families. DCP reported that several other initiatives were undertaken in 2020-21 to increase the participation of Aboriginal children and families in child protection decision-making, and that some of these initiatives were, themselves, developed through significant consultation with Aboriginal community members. These included:

- introducing legislation to embed the roles and powers of the Commissioner (as noted above, passed outside of this reporting period, in September 2021). The Commissioner now has an overarching statutory remit to promote and advocate for the rights and interests of all Aboriginal children and young people in South Australia, including by promoting their participation in the making of decisions that affect their lives; and³⁹
- the co-design, in partnership between DHS and an Aboriginal consultant, of a trauma-responsive system framework for the new CFSS. Aboriginal stakeholders, including families, Elders, ACCOs, and Aboriginal staff in government departments and NGOs, were consulted extensively in the design of the framework,⁴⁰ which involves six principles that need to be applied at all levels of the CFSS, including ‘*collaboration*’ and ‘*empowerment and self-determination*’.

However, this section focuses primarily on the operation of FGC in South Australia, including the above-mentioned AFLDM framework.

As noted in the 2020 Implementation Review and in the Prevention section above, DCP established an initial FGC pilot program in 2019-20. This invested \$1.6 million in Relationships Australia (SA) to provide specialised assistance to families who are at risk of child removal or who already have children living in OOHC. The Ngartuitya service is intended to have a strong focus on enabling Aboriginal family and community members to identify strategies to keep children and young people safe with family and kin, with DCP’s *Aboriginal Action Plan 2020-21* including a target for 40% of all FGC to support Aboriginal children and young people.

DCP reports that this target was exceeded (with the proportion reaching 41%) and that the total number of families participating in Ngartuitya conferences also increased in 2020-21, compared to the first year of the pilot. Furthermore, over the first 22 months of the program’s operation, agreements resulting from Ngartuitya conferences have satisfactorily managed all risks for 86.4% of the Aboriginal families participating (with the child or children remaining in the care of their families). The service has now been approved to transition to an ongoing program.⁴¹ While these early results are promising, Ngartuitya has not been designed, developed or delivered by an ACCO, and therefore falls short of the necessary criteria to implement the *Participation* element of the Child Placement Principle.

³⁸ SNAICC (2021) *Reviewing implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: South Australia*, p. 8. Available at: www.snaicc.org.au/wp-content/uploads/2021/03/Reviewing-Implementation-of-the-ATSICPP_2020_SA.pdf

³⁹ *Children and Young People (Oversight and Advocacy Bodies) (Commissioner for Aboriginal Children and Young People) Amendment Act 2021* (SA), s. 201.

⁴⁰ DS Consultancy and Think Human (2020) *Co-designing the Child and Family Support System: Final qualitative report*. Prepared for the South Australian Department of Human Services. Available at: https://dhs.sa.gov.au/_data/assets/pdf_file/0010/89353/Co-designing-new-CFSS-Final-Qualitative-Report-2020.pdf

⁴¹ South Australian Department of Child Protection (2021) *Safe and Well: Supporting families, protecting children 2021 Annual Report*, p. 10. Available at www.childprotection.sa.gov.au/documents/report/safe-and-well/safe-and-well-2021-annual-report.pdf

However, DCP reported that in 2020-21 it had also provided \$151,000 of dedicated funding to AFSS to deliver an Aboriginal-led FGC service, which commenced in April 2021. This is a very positive development, with ongoing funding confirmed for this service (\$620,000 was budgeted for the 2021-22 reporting year).

As mentioned in the *Prevention* section above, family group conferences in South Australia are used in three different circumstances for Aboriginal families – during pre-birth planning with the goal of preventing infants from coming into care; as part of intensive family support services with the goal of preventing children from coming into care; and where one or more children are on a protection order with the goal of safe reunification – but are only accessible upon referral from DCP. Making such a referral is not mandatory, and the Commissioner commented that the criteria for DCP to refer families to the AFSS’ FGC service – much like the Ngartuitya service – remain unclear to parties outside of DCP, particularly given the existence of the new AFLDM framework. The Commissioner argued, in line with best practice evidence, that total funding for this service must be sufficient to allow all new intakes to have the opportunity of FGC from the beginning of their contact with DCP, so that contingency plans can be developed for the possibility that early intervention fails and an application for a guardianship order is made.

SNAICC notes that, currently, section 12(3)(c) of the Act only mandates that DCP’s Chief Executive consult with a RATSIO about efforts to comply with the *Placement* hierarchy – there is no such obligation to consult with the child’s Aboriginal family. However, the Commissioner highlighted that the Act provides a useful set of formal processes for the convening of FGC,⁴² including a requirement under section 26 that any decisions made by agreement at family group conferences must be implemented, unless the arrangements are not safe for the child. In these circumstances, the expansion of ACCO-led FGC services – to align with the needs of *all* Aboriginal families engaged with the child protection system – is therefore essential for South Australia to substantively implement the *Participation* element.

Where AFLDM is concerned, DCP reports that the new framework, aimed at promoting self-determination for Aboriginal families, is currently in development and will be incorporated into DCP’s Manual of Practice during the next reporting period (2021-22).

The Commissioner commented that her office had not been consulted in the initial development of the framework during this reporting period, and that she did not see evidence of broad consultation or partnership with other Aboriginal community members in its design. During the reporting period, the framework draft was not publicly available online (though members of the public were able to request the draft through DCP’s policy register) and, consequently, there was limited transparency about how the framework supports or operationalises the elements of the Child Placement Principle (DCP notes that it began making all Manual of Practice documents, including this framework, publicly available online during the 2021-22 reporting year).

The Commissioner also commented that DCP should consider undertaking specific consultation with Aboriginal children about this framework to ensure that they feel supported to safely articulate their views in an AFLDM process that is often dominated by adults. Further to this, DCP should explore the possibility of children being provided with an advocate from their own cultural background in order to ensure they are culturally safe.

⁴² *Children and Young People (Safety) Act 2017 (SA)*, ss. 21–27.

In terms of overall system design and implementation, concerns around Aboriginal participation persist. In *Family and Culture is Everything* (released in September 2021), the Commissioner observed a lack of meaningful involvement by Aboriginal children, families and communities in the design of legislation, policy or practice – concluding that opportunities for input were generally ad hoc and tokenistic, rather than constituting genuine co-design or shared decision-making.⁴³

Connection

The *Connection* element aims to ensure that Aboriginal 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, given the need 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 planning⁴⁴ 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.⁴⁵

Of the 644 Aboriginal children in OOHC during 2020-21 who were *not* on finalised long-term guardianship or third-party parental responsibility orders, 64 children (9.9%) were reunified with their families.⁴⁶ This was the third-lowest reunification rate in the country (above New South Wales and Tasmania, but well below the national average of 16.4%) and was slightly lower than the proportion of non-Indigenous children who were reunified from care during the reporting period (11.8%).⁴⁷ However, the 2020-21 reporting year showed a significant improvement on 2019-20, when only 7.0% of Aboriginal children on short-term OOHC orders were reunified (though data for that year may have been affected by COVID-19 restrictions interrupted some reunification plans in early 2020).⁴⁸ This may be a positive early indicator that South Australia's Aboriginal child reunification rates are beginning to climb, after repeatedly decreasing from an initial proportion of 13.1% in 2016-17.⁴⁹

The Commissioner posited that this relatively low reunification rate is likely the result of several interacting causes. Firstly, there is no AFLDM process in place to ensure culturally safe planning for a

⁴³ South Australian Commissioner for Aboriginal Children and Young People (2021) *Family and Culture is Everything*. Available at: <https://cacyp.com.au/wp-content/uploads/2021/09/CACYP04-2020-Report-opt.pdf>

⁴⁴ '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.

⁴⁵ Accordingly, South Australia maintains the position that adoption will not be considered as an option for Aboriginal children and young people in care.

⁴⁶ AIHW, n 4, , Table S2.3a.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

child from the first substantiation of child abuse or neglect, so that attempts at reunification can be extended over a period of years instead of being crammed into 12 months. Secondly, the Commissioner suggested that reunification is not being attempted in enough cases, and that this may itself result from a lack of culturally safe and responsive reunification services and supports offered to Aboriginal families.

DCP noted that it had invested in an additional Aboriginal organisation to deliver reunification supports during the review period, with AFSS and KWY now both funded to offer these services. A new reunification service – NEWPIN – was also launched by Uniting Communities (a non-Indigenous NGO) in 2020-21. NEWPIN sees parents and children attend a centre-based program to engage in activities that improve parenting capacity and support the development of positive family relationships. DCP has announced further new investments in reunification services, including in another Aboriginal-led program, which will take place in 2021-22 and onwards.

The Commissioner also noted that a focus by DCP on finalised long-term guardianship orders (to 18 years of age), in line with the permanency planning measures described above, could preclude the possibility of extended reunification attempts. In 2020-21, South Australia had the third-highest proportion nationwide of Aboriginal children on finalised long-term care and protection orders – 86.5% of all Aboriginal children on care and protection orders – behind only New South Wales (92.4%) and the Australian Capital Territory (88.5%).⁵⁰ It appears that permanent guardianship orders are also frequently used for non-Indigenous children on care and protection orders, with 83.2% of those children being on finalised long-term orders at 30 June 2021.⁵¹

This focus on government-led permanency poses a significant risk to cultural connection and identity for Aboriginal children who are removed from their families. Aboriginal sector and community leaders have argued that the South Australian Government’s focus should instead be on working with Aboriginal communities and organisations to ensure that children maintain continuous connections to their extended families and communities, in line with Aboriginal attachment models.

Unfortunately, as noted in the previous Implementation Review, there remain no publicly available procedures on early and continued assessment of reunification opportunities or supports,⁵² as policies on reunification are only available upon request to DCP. However, DCP policy and practice guidance sets out additional considerations for Aboriginal children and young people in relation to long-term guardianship orders. This includes risks to Aboriginal children and young peoples’ sense of identity if care arrangements do not see them placed within family or community, or if the placement does not promote connection to family, community, culture or country.

The Act provides that Aboriginal children who are unable to be placed with a carer from their family, community, or from an Aboriginal background should ‘be given the opportunity for continuing contact with their family, community and culture’ (section 12(3)(b)). DCP provides funding for *Return to Country* and *Connection to Country* activities for children and young people in care where this is identified in their Aboriginal Cultural Identity Support Tool (ACIST). These activities are provided for

⁵⁰ AIHW (2022) *Child Protection Australia*, Supplementary Data Tables, Table S4.10.

⁵¹ Ibid.

⁵² While DCP’s assessment framework provides guidance on reunification, there is no specific reference to reunification in the context of Aboriginal children and their families. Refer to: www.childprotection.sa.gov.au/_data/assets/pdf_file/0017/126125/Assessment-framework.pdf

on a case-by-case basis and are tailored to the individual child or young person. DCP also facilitates group *Connection to Country* camps.

While these are important activities, the Commissioner has queried an apparent absence of initiatives that support Aboriginal children in care to move geographically closer to family and community in the longer term. The Commissioner also expressed concern that some Aboriginal children under guardianship orders are prevented from having contact with extended family and others who may have cultural obligations to the child in accordance with Aboriginal child-rearing practices, unless explicit permission is obtained from the child's DCP caseworker.

One promising aspect of South Australia's practice, however, is that DCP has offered greater transparency than most other jurisdictions around reconnecting Aboriginal children with their family or kinship networks. Statistics previously provided by DCP for the 2020 and 2021 Family Matters reports indicate that, of the 509 Aboriginal children who had been living with non-Indigenous and non-relative/kin carers at 30 June 2019, 131 children (25.7%) moved to placements with relatives or kin carers during 2019-20.

Another key element of maintaining cultural connection for Aboriginal children in OOHC is cultural planning – particularly when that planning is guided by the child, their family, community members (especially those with cultural authority for the child) and ACCOs. Whilst the Act requires that all Aboriginal children in OOHC have a cultural maintenance plan as part of case planning (section 28(2)), this 'does not create legally enforceable rights or obligations' (section 29(2)).

DCP has focused closely in recent years on increasing cultural planning through completion and ongoing review of Aboriginal Cultural Identity Support Tools. Upon release of DCP's first *Aboriginal Action Plan (2019-20)* only 20.2% of Aboriginal children and young people in care had a completed ACIST. As at 30 June 2021, this proportion has risen to 92.7% and DCP aims to soon reach 100%.

While it is promising to see this increase, the Commissioner expressed concerns with both the quality of cultural maintenance plans and the degree to which they are implemented by individual DCP caseworkers. The Commissioner's experience is that while practice guidance highlights the importance of ensuring that the views of Aboriginal children and family members are incorporated, in reality the process relies heavily on consultation with DCP's internal principal Aboriginal consultants. It was suggested that if an existing quality assurance mechanism is absent and so it cannot be determined that plans are implemented and genuinely support relevant cultural connections, a qualitative auditing process may need to be implemented to assess the quality of information provided in ACISTs.

DCP also develops Aboriginal Life Story Books to promote children's connection to culture. During 2020-21, 335 Life Story Books were provided to Aboriginal children in OOHC. These books are tailored to each child's specific cultural connections and aim to support Aboriginal children in care to grow up strong and proud of their culture, knowing who they are and where they come from. The Commissioner, while generally supportive of the project, noted that an auditing or oversight process (similar to that suggested for ACISTs) would help to ensure that these books contain the most relevant cultural information for each child.