

REVIEWING IMPLEMENTATION OF  
THE ABORIGINAL AND  
TORRES STRAIT ISLANDER  
CHILD PLACEMENT  
PRINCIPLE  
SOUTH AUSTRALIA  
2021-23



**SNAICC**  
National Voice for our Children

## Acknowledgement

SNAICC shows respect by acknowledging the Traditional Custodians of Country throughout Australia and their continuing connections to land, waters and communities. SNAICC head office is located on the lands of the Wurundjeri People of the Kulin Nation, and SNAICC operates nationally. SNAICC acknowledges Traditional Owners of all lands and waters across this continent and pays respects to Elders past and present. We acknowledge and respect their continued connection to Country, care for community and practice of culture for generations uncouthed.

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## Acronyms and abbreviations

Acronym	Full name of acronym
ACCO	Aboriginal and Torres Strait Islander community-controlled organisation
ACIST	Aboriginal Cultural Identity Support Tool
AEDC	Australian Early Development Census
AFLDM	Aboriginal family-led decision-making
AFSS	Aboriginal Family Support Services
AIHW	Australian Institute of Health and Welfare
APY Lands	Anangu Pitjantjatjara Yankunytjatjara Lands
CACYP / (the) Commissioner	Commissioner for Aboriginal Children and Young People
CFSS	Child and Family Support System
Child Placement Principle	Aboriginal and Torres Strait Islander Child Placement Principle
DCP	Department for Child Protection
DHS	Department of Human Services
FGC	Family Group Conferencing
FSS	Family Support Services
GCOs	Guardianship Custody Orders
IFSS	Intensive Family Support Services
KWY Aboriginal Corporation	Kornar Winmil Yunti Aboriginal Corporation
National Agreement	National Agreement on Closing the Gap
NPY	Ngaanyatjarra Pitjantjatjara Yankunytjatjara
OOHC	Out-of-home care
RASA	Relationships Australia South Australia
RATSIO	Recognised Aboriginal and Torres Strait Islander Organisation
RoGS	Report on Government Services
SA Government	South Australian Government
SAACCON	South Australian Aboriginal Community Controlled Organisation Network
Safe and Supported	Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031
Safe and Well	Safe and Well: Supporting families protecting children strategy
SCRGSP	Steering Committee for the Review of Government Service Provision
SFS	Safer Family Services
SNAICC	SNAICC – National Voice for our Children
TPPROs	Third-Party Parental Responsibility Orders
TTA	Taikurtina Tirra-apinghi
TW	Tiraapendi Wodli

## Introduction

This report reviews the progress of the South Australian Government, primarily through the Department for Child Protection (DCP), 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 law, 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
- 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 1 July 2021 – 30 June 2023. Quantitative data for 2022–2023 are included where available. The qualitative analysis considers developments occurring to 30 June 2024.

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 series (SNAICC 2017, SNAICC 2018A), a 2018 baseline analysis (SNAICC 2018b), and subsequent annual reviews 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 the 2024 Report on Government Services (ROGS) Chapter 16 – Child Protection (SCRGSP 2024), the Australian Institute of Health and Welfare (AIHW) *Child Protection Australia 2022–23* report (AIHW 2024a), and the AIHW *Aboriginal and Torres Strait Islander Child Placement Principle Indicators 2021–22* report (AIHW, 2024). OOHC figures in this review comprise 'out-of-home care' and 'third-party parental responsibility orders' from the AIHW report or, where indicated, 'out-of-home care' and other supported placement data from ROGS. Data on 'children of unknown Indigenous status in out-of-home care' have not been included in this review's figures, where relevant.

These reviews arise from *Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031* (Safe and Supported). 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, these reviews align with the priority reform areas of the National Agreement on Closing the Gap (National Agreement), including Priority Reform 4 on improving Aboriginal and Torres Strait Islander peoples' access to data that affects them and their communities.

## Holding on to Our Future

In June 2024, the Commissioner for Aboriginal Children and Young People (Commissioner) released the report *Holding on to Our Future*, following an inquiry into the application of the Child Placement Principle in the removal and placement of Aboriginal children and young people in South Australia. SNAICC acknowledges the significance of the Holding on to Our Future report and the comprehensive analysis it provides on the implementation of the Child Placement Principle. Whilst every effort has been made to incorporate the findings from Holding on to Our Future into this report, it is recommended that readers look at Holding on to Our Future alongside this review, to obtain a complete analysis of the implementation of the Child Placement Principle in South Australia.

## Overview

### Prevention

Aboriginal and Torres Strait Islander families and communities have been raising happy, healthy and resilient children who enjoy a strong connection to culture for generations. Despite these strengths—and representing under 5% of the total population aged 0–17—Aboriginal children in South Australia accounted for 38.6% of those in OOHC care at the end of June 2023. However, the growth rate of Aboriginal children in care has fallen from 8.5% in 2020–21 to 4.8% in 2021–22 and 3.5% in 2022–23. In the reporting period, in part due to the redesign of and investment in services, there has been a significant increase in the number of Aboriginal children commencing Intensive Family Support Services (IFSS)—from 246 in 2020–21 to 1,051 in 2021–22 and 1,147 in 2022–23 (SCRGSP 2024, Table 16A.35)<sup>1</sup>.

A promising investment has been the provision of \$3.3 million in funding from April 2020 to June 2023 to Kornar Winmil Yunti (KWY) Aboriginal Corporation from DCP to pilot the Taikurtina Tirra-apingthi (TTA) OOHC prevention program for Aboriginal families in the western suburbs of Adelaide (SA Government, 2023). Through the TTA OOHC prevention program, practitioners work with

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<sup>1</sup> Intensive family support services activity data is compiled from aggregate data provided by Community Sector Organisations (CSOs) and is not provided by all CSOs, and the data provided is not validated. SA has not been able to obtain activity data for all programs, therefore the cost per child receiving intensive family support services (IFSS) is likely to be overstated and should be interpreted with caution.

In 2020-21, SA included a redesign of services (family support and intensive family support) within the Community Sector Organisations, effective 1 April 2021. The redesign of programs/services resulted in additional programs being included that were previously excluded as they were universal to all. During 2021-22 there was a further redesign and expansion in programs and services provided by umbrella agencies resulting in family preservation and protective intervention programs previously categorised as family support services becoming intensive in nature. From 2021-22, expenditure on intensive family support services includes programs which run beyond the six-month short-term time frame.

families who are at imminent risk of having their children removed, providing support services to keep families together.

### Partnership

There has been an ongoing legislative review in South Australia, where the SA Government has made a commitment to embed the Child Placement Principle in the *Children and Young People (Safety) Act 2017*. The South Australian Government provided funding for the community to progress with the establishment of a peak body for Aboriginal children and families, along with various partnerships, formal agreements and the appointment of a senior Aboriginal executive within DCP (SA Government, 2023). Wakwakurna Kanyini, the new Peak Body led by Aboriginal people in South Australia, was established in mid-2024.

### Placement

Residential care should be a last resort, yet South Australia has consistently placed a large number of children in these facilities. As of 30 June 2022, the state recorded the highest proportion of Aboriginal children in residential care among all jurisdictions. As of 30 June 2023, 60.7% of Aboriginal children in OOH in South Australia were placed with family, kin or other Aboriginal carers. This is a slight decrease from previous years (61.2% in 2022) (SCRGSP 2024, Table 16A.23). This figure falls below the national average and is notably lower than in Victoria and New South Wales. The introduction of the Taikurtirna Warri-apinthe procedure program demonstrates a commitment to improving family scoping and placement practices (SA Government, 2023). The Taikurtirna Warri-apinthe procedure program employs practitioners to create maps or genograms to identify kinship and community placements for Aboriginal and Torres Strait Islander children. The Commissioner for Aboriginal Children and Young People has urged that family scoping occur at the local level through a local ACCO service.

### Participation

Family Group Conferencing (FGC) is legislated in South Australia. DCP is funding a state-wide FGC service, delivered by Relationships Australia South Australia (RASA) and an Aboriginal-specific FGC service through Aboriginal Family Support Services (AFSS). There have been some positive outcomes from FGC and targets have been exceeded in certain programs, such as the Ngartuitya FGC service, which provides Aboriginal children and families with an Aboriginal coordinator to assist them throughout the FGC process. However, referrals to FGC providers by DCP are not mandatory and it is at the discretion of DCP whether an FGC is offered. Mandatory, structured and culturally safe Aboriginal FGC is crucial for achieving self-determination and addressing the over-representation of Aboriginal children in the child protection system.

DCP has introduced an Aboriginal family-led decision-making (AFLDM) framework, however, it is 'largely a discretionary matter' as to how the principle of participation is operationalised in practice (CACYP 2023). The Commissioner for Aboriginal Children and Young People expressed concern that this framework prioritises the voices of Aboriginal staff in the department over the voices of families, which goes against the principles of AFLDM.

## Connection

As of 30 June 2022, 3.8% of Aboriginal and Torres Strait Islander children were reunified from OOHC in South Australia (AIHW 2024a T3, AIHW 2024b: Table 10.18). DCP has taken some positive steps, such as engaging Aboriginal organisations for reunification support and implementing tools like the Aboriginal Cultural Identity Support Tool (ACIST) (SA Government, 2023). There has been a significant increase in the proportion of Aboriginal children with completed ACISTs by June 2022. However, there is a need for ongoing reform to ensure compliance with the Connection element. While there is a range of circumstances in which reunification on long-term orders may be considered and ongoing reassessment of the circumstances of the family and the child or young people is embedded in DCP's policy, it is clear from the low rates of reunification that DCP has not facilitated sufficient reconnections through placement changes.



## Prevention

The prevention element of the Child Placement Principle aims to ensure that Aboriginal and Torres Strait Islander children and their families grow up healthy and safe, and within their own family and community. Preventing children and families from entering the child protection system requires collaboration among various services and programs that span multiple government sectors, such as health, education, housing and economic development. This review primarily focuses on the child protection-focused activities of the DCP and the Department of Health Services (DHS), while noting that holistic prevention can only be achieved with a whole-of-government approach. One of the headline findings in the Commissioner’s Holding on to Our Future report is the insufficient funding to provide culturally appropriate early intervention services. When compared to all other states and territories, South Australia spends significantly less on support and intervention measures (19%) (CACYP, 2024, p55), with Queensland spending the second least at 28% (CACYP, 2024, p55).

Whilst this review highlights some of the positive investments that have been made towards the ‘prevention’ element of the Child Placement Principle, greater investment in culturally safe, early intervention and preventative services are needed to help reduce the number of Aboriginal children in OOHC.

### Over-representation in out-of-home care

While the South Australian Government asserts that it is committed to implementing active efforts to reduce the over-representation of Aboriginal children and young people in the child protection system and embed the core elements of the Child Placement Principle across the system there is limited evidence of substantive change. In South Australia, Aboriginal children accounted for 37.3% (1,822 out of 4,882 children) of all children in OOHC—or other supported placements—as of 30 June 2023 despite representing just under 5% of the total population aged 0–17 (SCRGSP 2024, Table 16A.2, 16A.3 and 16A.42). This proportion has remained relatively stable over the reporting period, with Aboriginal children accounting for 37.1% (1,764 of 4,758 children) of all children in OOHC in 2022, compared with 36.2% (1,684 of 4,649 children) in 2021 (SCRGSP 2024, Table 16A.2, 16A.3).

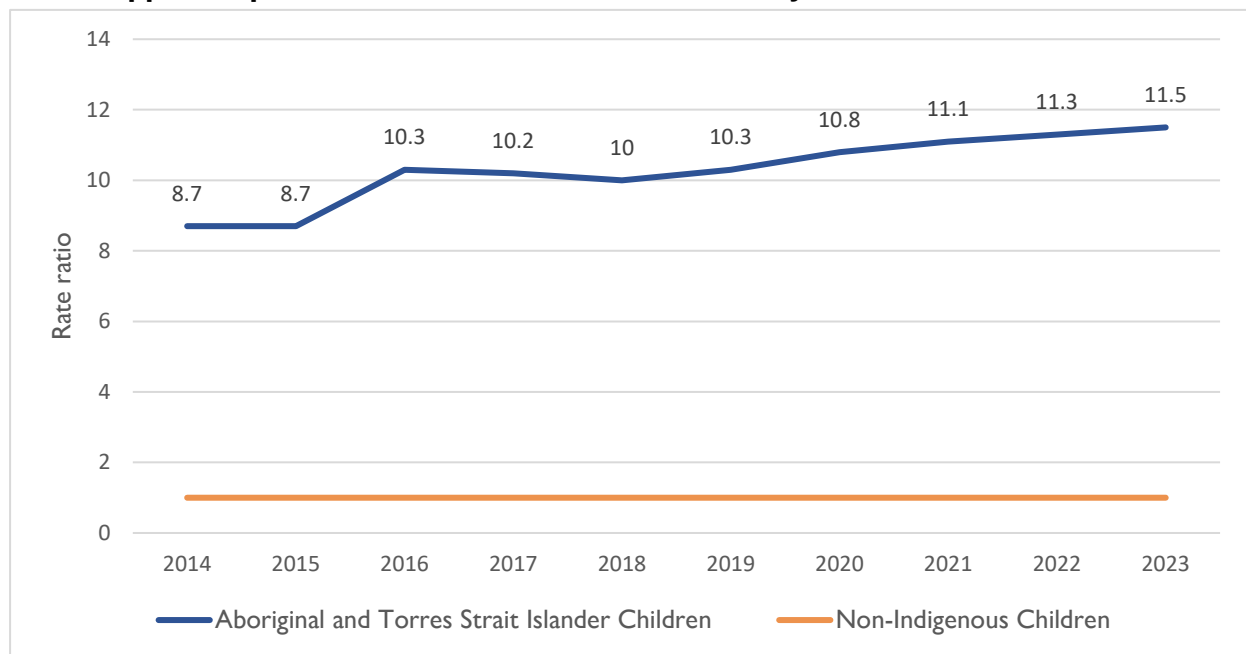
As of 30 June 2023, Aboriginal and Torres Strait Islander children in South Australia were placed into OOHC and other supported placements at 11.5 times the rate of non-Indigenous children, compared to 11.3 in 2022 and 11.1 in 2021 (SCRGSP 2024 Table 16A.2, 16A.3 and 16A.42).<sup>2</sup> Figure 1 shows the trend in rate ratios comparing Aboriginal and Torres Strait Islander children and non-Indigenous children in OOHC and other supported placements in South Australia over the past ten years. Rate ratios are calculated by dividing the rate for Aboriginal and Torres Strait Islander children (per 1,000 children) by the rate for non-Indigenous children.

It is important to note that the number of Aboriginal and Torres Strait Islander children in OOHC rose by 80 across the July 2021 to June 2021 period, which is almost three times the growth for non-Indigenous children in OOHC over the same period (29).

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<sup>2</sup> The source of this data is different from the Family Matters 2024 report and numbers will therefore differ

**Figure 1 – Rate ratios of Aboriginal and Torres Strait Islander children in OOHC and other supported placements in South Australia as of 30 June 2014–2023.**



Source: SNAICC calculation of rate ratios, with data drawn from - Report on Government Services 2024, Part F, Section 16 Child Protection Services. Table 16A.2, 16A.3 and 16A.42

### Social determinants of child protection involvement

Some of the key drivers of children and families entering the child protection system relate to social determinants of health. Access to adequate housing, education, employment and affordable food has a significant impact on an individual’s health and wellbeing. For Aboriginal and Torres Strait Islander families, these factors are further complicated by the enduring effects of colonisation and intergenerational trauma.

The relationships between social determinants and the primary reasons for child protection involvement are complex. There is a multi-faceted dynamic relationship between social determinants and child protection processes of notifications, investigations, substantiations, making of care and protection orders, and removal into OOHC. For example, poverty can often be conflated with neglect during child protection investigations and can result in inappropriate child protection interventions. The interplay between social and economic factors that can contribute to children being mistreated, abused and neglected is complex and is intertwined with ongoing institutional biases and systemic racism. When looking at the level of child protection involvement in Aboriginal and Torres Strait Islander families, it is important to consider the factors around the family and community and whether they are creating enabling environments for children to thrive.

In 2021, Aboriginal and Torres Strait Islander people made up 2.4% of the total population in South Australia (ABS 2023) and Aboriginal and Torres Strait Islander children and young people made up just 4.9% of the population of children aged 0–17 (SCRGSP 2024, Table 16A.42). From 2021 to 2023 in South Australia, there continued to be a range of social, economic and health challenges that can contribute to Aboriginal and Torres Strait Islander children entering OOHC. These challenges, as well

as recent activities to address them, are outlined below.

### **Barriers to education**

In 2021, 31.3% of Aboriginal children in South Australia were assessed as being developmentally 'on-track' in all five domains of the Australian Early Development Census (AEDC), compared with 54.9% of non-Indigenous children. This was the equal third-lowest rate of any state or territory in Australia (Productivity Commission 2023).

In 2022, DHS partnered with the South Australian Department for Education (DfE) and KWY Aboriginal Corporation to develop an Aboriginal-led intensive family service with an additional education component (SA Government 2023). The Young People Empowered to Reengage Towards Achievement (YERTA) pilot is being delivered by KWY Aboriginal Corporation. The two-year project is trialling a culturally appropriate service to address complex family barriers to attendance at school for Aboriginal families with the provision of IFSS.

### **Early Contact with Youth Justice**

In 2020–21, 42.1% of young Aboriginal people under youth justice supervision in South Australia had had contact with child protection in the previous 5 years and 50.4% of young Aboriginal people in detention had had contact with child protection in the previous 5 years (AIHW, 2022b).

Aboriginal and Torres Strait Islander young people aged 10–17 were 18 times more likely than non-Indigenous young people to be under supervision (103.6 per 10,000 compared with 5.8 per 10,000) (AIHW 2023b). Aboriginal and Torres Strait Islander over-representation was similar in community-based supervision (17.4 times the non-Indigenous rate) and slightly higher in detention (20.1 times the non-Indigenous rate) (AIHW 2023b).

### **Poverty, socio-economic disadvantage, and homelessness**

Almost one-third (30.3%) of Aboriginal and Torres Strait Islander households in South Australia reported a total household weekly income of \$1,000 or more in 2021 compared with 36.7% nationally (ABS 2022). The weekly median household income for Aboriginal and Torres Strait Islander households in South Australia was \$716, which was lower than the national average for all households of \$830 (ABS 2022).

In South Australia, Aboriginal and Torres Strait Islander people experienced homelessness at the third highest rate nationally, with 327 people per 10,000 experiencing homelessness in 2021 (ABS 2021). Inadequate access to emergency accommodation, as well as barriers to securing stable, affordable, culturally appropriate and high-quality public housing for families facing eviction, can increase the likelihood of contact with the child protection system for Aboriginal and Torres Strait Islander children and their families and increases the risk of adverse outcomes. Research has found that nationally, Aboriginal and Torres Strait Islander individuals are 10.4 times more likely to use specialist homelessness services compared to non-Indigenous individuals, with a notable increase in service usage over the past 10 years (AIHW 2024c).

## Domestic and Family Violence

In December 2023, the Yellow Gate ‘domestic violence prevention’ hub opened at Noarlunga Colonnades Shopping Centre after six years of community rallying. This was then followed by an announcement that there would be a Royal Commission into domestic, family and sexual violence in South Australia. The Commission commenced work on 1 July 2024 and is due to complete its work by 1 July 2025.

### Family Support and Intensive Family Support Services

In South Australia, IFSS—for the purpose of national reporting through RoGS—incorporates the IFSS program administered through the DHS Child and Family Support System (CFSS) and DCP’s reunification and intensive family support activities. This is distinguished from FSS, delivered by DCP, DHS and contracted service providers. FSS includes FGC convened under the Children and Young People (Safety) Act 2017. The tertiary child protection system is administered by the DCP. Accordingly, this review covers the direct actions of both departments.

The DHS Safer Family Services (SFS) delivers IFSS through a range of program areas that cover children and young people of all age groups—from pre-birth to 18 years—and their families (SA Government, 2023). SFS practitioners work with families with a priority focus on the needs of the child. DHS also funds community providers—including ACCOs—to deliver IFSS across metropolitan and country areas. In doing so, DHS dedicates at least 30% of non-government services funding to ACCO providers as part of its commitment to support Aboriginal self-determination and the growth of the ACCO sector (SA Government, 2023).

While the South Australian Government’s ongoing CFSS reforms have seen DHS achieve its target of procuring 30% of IFSS from ACCOs (SA Government, 2023), there is still significant work to do in ensuring the proportion of ACCO-delivered services matches the required need in the Aboriginal community. DHS’s target is focused on expenditures outside of government, but the 2024 Family Matters report shows that of all expenditures on FSS and IFSS—including within government—only 9.8% flowed to ACCOs (SNAICC 2024). This is far below the required need in the community, with Aboriginal children in South Australia accounting for 37% of those in OOHC and on third-party parental responsibility orders (TPPROs) in 2023 (SNAICC 2024). Contracts for the delivery of crucial services to Aboriginal families are still awarded to non-Indigenous organisations. For example, Tiraapendi Wodli (TW) is an Aboriginal community-led approach aimed at increasing the strength and resilience of Aboriginal people living in the western areas of Adelaide (SA Government 2023). The initiative is led by the Australian Red Cross in collaboration with Justice Reinvestment South Australia, both being non-Aboriginal organisations. DHS provided funding of \$422,000 in 2021–22 for this initiative (plus indexation) and 210 individuals and their families were provided with support during that period.

Reform of the family support service system has been a key priority of *Safe and Well: Supporting families protecting children strategy* (Safe and Well), which is a whole-of-government child protection strategy released in 2019. Under Safe and Well, DHS led the co-design of a new CFSS in partnership

with Aboriginal communities and other non-government stakeholders. The DHS *Roadmap for reforming the CFSS 2021–2023* (DHS Roadmap) outlines the steps that DHS is taking to improve early intervention services for children and families with complex needs (DHS 2021b). Aboriginal children are a priority population for the DHS Roadmap. The DHS Roadmap embodies a ‘healing approach’ to be guided by DHS’s Aboriginal and Torres Strait Islander System Design Criteria (DHS 2021b). The DHS Roadmap notes IFSS services delivered by ACCOs as a key investment.

Despite the commitments stated in *Safe and Well* and the DHS Roadmap—to increase access to family support and IFSS—in 2022–23 only 9.1% of child protection funding was spent on these services (SCRGSP 2024, Table 16A.8). This is a slight decrease from previous years with 9.7% of child protection funding spent on family support and IFSS in both 2021–22 and 2020–21 (SCRGSP 2024, Table 16A.8). Whilst there has been an increase in the amount spent on IFSS, this still only represents 9.1% of all child protection funding. Despite this, South Australia has a relatively high real recurrent expenditure per child in IFSS compared to other jurisdictions spending \$111,580 per child in the population of service users, in the financial year 2021–2022 (SNAICC 2023, p40).

There was a significant increase in the number of Aboriginal children commencing IFSS from 246 in 2020–21 to 1,051 in 2021–22 and 1,147 in 2022–23 (SCRGSP 2024, Table 16A.35). This parallels an increase in the proportion of all children commencing IFSS from 678 in 2020–21 to 3,160 in 2022–23 (SCRGSP 2024, Table 16A.35). AIHW’s *Child Protection Australia* notes that this data must be interpreted with caution as, in South Australia, programs that were previously categorised as ‘family preservation’ and ‘protective intervention’ are now defined as IFSS (AIHW 2023). The proportion of Aboriginal children who commence IFSS remained relatively stable from 36.3% in 2020–21 to 36.7% in 2021–22 and 36.3% in 2022–23 (SCRGSP 2024, Table 16A.35), and is similar to the proportion of Aboriginal children subject to substantiation in 2022–23 (35%) (SCRGSP 2024, Table 16A.1).

A promising investment has been the provision of \$3.3 million in funding from April 2020 to June 2023 to KWY Aboriginal Corporation to pilot the TTA OOHC prevention program for Aboriginal families in the western suburbs of Adelaide (SA Government 2023). Designed to work with Aboriginal families in western Adelaide whose children are at imminent risk of being placed in OOHC the 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 (SA Government 2023). The external DHS evaluation of this service showed positive results and so the service has been funded by DHS post-pilot for a further two years.

Also of note is the recommissioning of the DHS *Strong Families, Strong Communities* funding program in 2022, which commenced on 1 July 2023 (SA Government 2023). The program provides early intervention funding to non-government organisations and ACCOs to provide support to families with lower to medium-level child safety concerns to access less intensive short-term case management, as well as community capacity building and peer support program initiatives. Sixteen new services are funded, four of which are ACCOs. The recommissioning of this funding program intends to provide an earlier intervention response from within the CFSS, as well as from other services, and

forms of community support.

DHS has developed an *Aboriginal Cultural Practice Framework* (Framework) which was released in early 2023 (DHS 2022b). The Framework is intended to guide IFSS practitioners and supervisors on culturally safe and responsive practice. It is designed to support self-determination and AFLDM, and to guide the allyship and accountability of staff. It is unclear to what extent Aboriginal people can lead formal evaluation and monitoring processes to ensure the framework is successful in meeting its defined purpose of providing 'culturally safe and responsive practice with Aboriginal families with the aim of keeping children safe and well at home' (DHS 2022b p. 7).

### Services funded by the Social Impact Bond

The South Australian Government has implemented two social impact investments aiming to reduce the number of children in care:

1. the Newpin (reunification) Program, which aims to restore children who have been removed to care back to family; and
2. the Resilient Families (family preservation) Program, which is an intensive family support service for families where children are at imminent risk of removal, aiming to avoid entry to care.

These programs are being contract-managed by DCP and DHS respectively. The Department for Treasury and Finance (DTF) led the procurement and contract negotiation for both programs and remains actively involved in the analysis of data to measure program performance.

The Newpin Social Impact Bond (SIB) is South Australia's second SIB, focused on family reunification services in a centre-based model operated by Uniting Communities. The Resilient Families program is a payment-by-results (PBR) contract focused on family preservation services operated by the Benevolent Society.

Of the 130 children who received support through the Resilient Families program in 2021–2022, 36 (27%) were Aboriginal (DCP 2022b). In 2021–2022, 39% of children who accessed the Newpin program identified as Aboriginal and/or Torres Strait Islander (Social Ventures Australia 2022). However, both programs are only open to families upon referral from DCP following notification or investigation being made against the child or family. These programs do not provide universal support for families and cannot be accessed via self-referral before notification or investigation. To reduce the over-representation of Aboriginal children in OOHc it is essential that culturally safe, holistic, early intervention and prevention services are made available for all children and families.

ACCOs are best placed to deliver preventative services for Aboriginal and Torres Strait Islander children. Whilst this investment in family support is welcomed, neither the Resilient Families nor Newpin program directs funding towards ACCOs. The Benevolent Society is solely funded by DHS to deliver the Resilient Families program (DCP 2022b). The Newpin program was brought to South Australia by Uniting Communities together with the state and federal governments and Social Ventures Australia through a social impact investment funding model to which the former Minister for

Child Protection committed \$15.05 million (Uniting Communities 2021). To achieve best outcomes, it is integral that organisations providing preventative support are trusted by families to provide services that are culturally safe and connected to their community.

### Removal of infants at birth, and support for expectant mothers and newborns

In 2022, Aboriginal and Torres Strait Islander infants—children under one year old—were removed at 11.9 times the rate of non-Indigenous infants in South Australia (SNAICC 2023, 23). South Australia does not currently provide data for unborn reports.

DCP has acknowledged the need to improve supports provided to expectant mothers and newborns identified as being at risk of child protection intervention. In response, they have reported on the following initiatives (SA Government 2023):

- DCP and SA Health have developed the Collaborative Case Management of high-risk infants in hospitals' policy directives
- DCP is piloting a new approach to service delivery for high-risk infants in the Southern metropolitan area
  - high-risk infant services will be delivered by a specialised team across the Southern metropolitan region with the aim of enhancing consistency, quality of service delivery and engagement with stakeholders and partners
- a Memorandum of Administrative Arrangement (MOAA) has been executed with the Southern and Northern Adelaide Local Health Networks—and is progressing with the Women's and Children's Health Network)
  - the MOAA enables DCP High-Risk Infant Workers to work with SA Health staff at birthing hospitals.

Whilst these reforms are a step in the right direction it is unclear whether they were developed in partnership with Aboriginal people and to what extent the practice in these programs will be culturally safe and responsive to Aboriginal and Torres Strait Islander people. It is further unclear whether these programs incorporate Aboriginal-led review or evaluation processes to ensure these programs are culturally safe and deliver desired outcomes as determined by Aboriginal people.

In response to these concerns, DCP advised that the Aboriginal and Torres Strait Islander Impact Statement (AIS) is used to pursue DCP policy and practice that is culturally safe, inclusive and responsive to the needs of First Nations peoples. An AIS must accompany all new and revised policies, procedures, Manual of Practice guidance, projects, programs, contracts, reforms, training materials and initiatives when seeking final approval through the applicable governance process.

DCP also noted that early engagement and consultation with Aboriginal and Torres Strait Islander stakeholders is required in the development or review of any initiative that requires an AIS. Those responsible for the development or review of materials must be able to demonstrate that stakeholder engagement has occurred—or describe how that was considered. Whilst it is pleasing to see that these policies and procedures are in place no detail is publicly available on whether these approaches have been complied with.

The presence of DCP workers in hospitals can be severely traumatic to parents and families and presents a risk to the success of medical procedures including birthing. As noted by the Commissioner for Aboriginal Children and Young People, many Aboriginal people in South Australia are fearful that a child will be removed at birth without ‘giving the parents and extended family a chance to demonstrate their ability to care for a child’ (CACYP 2023). Where high-risk infant services are deemed to be required, funding should be directed towards ACCOs to provide wrap-around services that are culturally safe and trusted by the community (SNAICC 2023:51).

## Partnership

To improve the wellbeing of Aboriginal and Torres Strait Islander children and families, it is important for governments and key stakeholders to establish and maintain genuine partnerships with Aboriginal and Torres Strait Islander communities. Ensuring meaningful involvement of Aboriginal and Torres Strait Islander people in all aspects of design, delivery and decision-making within child protection systems is an essential element of the Child Placement Principle. However, there is a need for governments to further prioritise the full implementation of the essential principle.

In the Holding on to Our Future report, the Commissioner emphasised that the ‘state Government’s failure to harness local level Aboriginal community intelligence and knowledge of family and culture through genuine partnerships is a barrier to the effective application of the [Child Placement] Principle.’ (CACYP 2024:16).

### Closing the Gap Implementation Plan

In 2022, DCP announced the commencement of a full review of the *Children and Young People (Safety) Act 2017* (Act). The Act requires a full review of the legislation to be undertaken before the fifth anniversary of its commencement. In announcing the review, the South Australian Minister for Child Protection, the Hon Katrine Hildyard, stated that a ‘key priority of the review is to work with Aboriginal stakeholders to deliver on our commitment to fully embed the Aboriginal and Torres Strait Islander Child Placement Principle’ (DCP 2022c).

The South Australian Government reinforced its commitment to those legislative reforms in its first Closing the Gap Implementation Plan (Implementation Plan) (Attorney-General's Department (2021a:79). The Implementation Plan commits DCP to progress amendments to the Act:

- ‘the Child Placement Principle will be embedded in the Act as the principal framework for all statutory child protection decision-making relating to Aboriginal children and young people’; and,
- ‘the Act will be extended to ensure statutory functions, particularly investigations and guardianship, can be delegated to Aboriginal organisations and people’ (Attorney-General's Department (2021a:79).

The Implementation Plan also commits DCP and DHS to the development of a strategy for reducing the over-representation of Aboriginal children and young people in OOHC under Target 12 of the



National Agreement (Attorney-General's Department (2021a:79)). Further, the plan commits DHS to lead the reform of South Australia's Child and Family Support System with a vision for children to be 'safe and well in family, community and culture' (Attorney-General's Department (2021a:80)). This work led to the development of the DHS Roadmap.

The Implementation Plan also commits DCP to progress amendments to 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. The Act currently contains a general provision, 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.

At the time of drafting this review, DCP had held several consultation sessions with Aboriginal stakeholders to inform the legislative review process. The review of the Act commenced in September 2022 with a consultation process through which nearly 1000 Aboriginal and non-Aboriginal people engaged via public forums in both metropolitan and regional locations, online surveys, written submissions and targeted discussions to share their views on the effectiveness of the legislation. The review also included targeted consultation with Aboriginal community members and leaders, and representatives from Aboriginal organisations. In line with the commitment in the South Australian Closing the Gap Implementation Plan, the review team also held a series of workshops with the South Australian Aboriginal Community Controlled Organisation Network (SAACCON) focused on amendments related to the Child Placement Principle.

The Commissioner states 'the consultation process was rushed and lacked promotion and partnerships to capture the voices of Aboriginal community and stakeholders regarding Aboriginal children' (SNAICC 2023:78). It is critical that Aboriginal people lead the development of these legislative reforms to ensure they are suitable for the needs of Aboriginal organisations, communities, families and children.

#### Establishment of a peak body for Aboriginal children and families in South Australia

ACCOs are best placed to provide Community-led and culturally safe child and family services to Aboriginal and Torres Strait Islander communities (Attorney-General's Department (2021a)). Ensuring that ACCOs are able to lead the design and delivery of child and family services supports self-determination and community solutions to child protection matters, and upholds the rights of Aboriginal and Torres Strait Islander children to grow up within their own family and Community (SNAICC 2017).

The SA Government has made previous commitments to provide funding towards an Aboriginal-led process to establish a South Australian peak body for Aboriginal children and young people (Attorney-General's Department 2021b). In mid-2021 SNAICC was contracted 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 South Australia's Commissioner for Aboriginal Children and Young People.

In March 2023, the SA Government committed \$3.2m over 5 years to establish a Peak Body for Aboriginal children and families as proposed in SNAICC's *Development of options for a South Australian Aboriginal Children and Families Peak Body: Final Report*.

Wakwakurna Kanyini—the new Peak Body led by Aboriginal people in South Australia—was established in mid-2024. The establishment process was overseen by a Steering Committee of South Australian Aboriginal Community leaders and experts, convened and supported by SNAICC.

#### Other partnership activities – DCP

DCP has entered into a number of formal partnership agreements with Aboriginal organisations, including with:

- Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council and the WA and NT Governments to develop and implement a tailored and integrated approach to child protection work in the cross-border region
- Nunkuwarrin Yunti to establish a process for Aboriginal applicants to gain priority access to relevant records held by DCP including waiving of application fees
- various grants and supports to Aboriginal organisations including NAIDOC, Family Matters Working Group and Reconciliation SA.

To support Aboriginal policy leadership in DCP, in May 2021 DCP established Kumangka Wangkanthi—Kurna for 'talking together'. This is a formal subcommittee of DCP's Senior Executive Group comprised of senior Aboriginal employees across DCP. DCP is currently recruiting for the newly created position of Executive Director of Aboriginal Policy and Services, which is an identified Aboriginal position and is vital for ensuring cultural leadership, expertise and advocacy for Aboriginal perspectives at the highest level. Increased Aboriginal leadership within government agencies is critical to improving the cultural responsiveness of government, although it is not a substitute for partnership with Aboriginal people in service and funding design.

#### Other partnership activities – DHS

The DHS *Innovate Reconciliation Action Plan March 2022–March 2024 (Plan)* outlines DHS's vision to support self-determination and 'engage and listen to Aboriginal and Torres Strait Islander peak bodies, Aboriginal and Torres Strait Islander community-controlled organisations, non-government organisations, clients and staff' (DHS 2022a p. 15). The Plan also commits to ensuring that 4% of the total DHS workforce is to be Aboriginal by the end of 2023 through the implementation of DHS's Aboriginal Workforce Strategy 2021–2023 (DHS 2022a p. 13). Concerningly, despite DHS having a key role in supporting vulnerable children and their families in South Australia, the Plan does not refer to or comply with the Child Placement Principle (DHS 2022a p. 10).

The DHS *Disability Access and Inclusion Plan 2020–2024* requires direct consultation with children and

young people living in residential care regarding their needs and increased resources for consultation with young people with disability regarding their care. Additionally, the Plan specifically requires improvement of the department's response to working with children and young people, carers and families with disability from Aboriginal and Torres Strait Islander communities, including through the provision of practical guidance and following a family-led decision-making framework (DHS 2023). Whilst a Revised Disability Access and Inclusion Plan was released in 2023, SNAICC notes that there is limited reference or actions that address the needs of Aboriginal and Torres Strait Islander young people in care with only one action (out of 65) directly referencing Aboriginal and Torres Strait Islander people.

## Placement

When a child is to be placed in OOHC, the Child Placement Principle placement hierarchy aims to ensure that Aboriginal and Torres Strait Islander children maintain connection to their family, community, culture and Country.

In the Holding on to Our Future report, one of the Commissioner's key findings was the ongoing contribution of systemic racism and cultural bias to the disproportionate rates in the removal of Aboriginal and Torres Strait Islander children and placement into care with non-Indigenous families (CACYP 2024; 18). As seen in Table 1, the rates of placement of Aboriginal and Torres Strait Islander children with relatives/kin have remained relatively stable between 2017 and 2023. As of 30 June 2023, 32.3% of Aboriginal and Torres Strait Islander children in South Australia were placed with Aboriginal and Torres Strait Islander relatives/kin (SCRGSP 2024, Table 16A.23).

As of 30 June 2023, 60.7% of Aboriginal children in OOHC in South Australia were living with family, kin or other Aboriginal carers and were, therefore, placed in one of three preferred placement options (SCRGSP 2024, Table 16A.23). This was a slight decrease on the corresponding proportion in 2022 (61.2%) and 2021 (61%) (SCRGSP 2024, Table 16A.23). It is also important to note that whilst these children may have been placed in one of three preferred placement options within the placement hierarchy, it does not establish that the Child Placement Principle has been properly applied in relation to scoping options for placement with Aboriginal family or kin.

The findings are primarily due to an increase in the rate of placement with non-Indigenous relatives or kin. Placements with non-indigenous relatives have increased from 18.5% in 2017 to 22.5% in 2023 (SCRGSP, Table 16A.23). Placements with Aboriginal and Torres Strait Islander relatives or kin have remained relatively stable from 2017 (32.1%) to 2023 (32.3%) (SCRGSP, Table 16A.23). South Australia remains below the average for all jurisdictions in the proportion of Aboriginal and Torres Strait Islander children who are placed with family, kin or other Aboriginal carers (63.1%) and lags substantially behind Victoria (80.3%) and New South Wales (70%) (SCRGSP, Table 16A.23).

As outlined in Table 1, the total proportion of children placed with any Aboriginal carers remained relatively unchanged from 37.9% in 2022 to 38.1 in 2023, which is several percentage points below the national average of 41% (SCRGSP 2024, Table 16A.23).

**Table 1 – Aboriginal children in South Australia aged 0–17 in out-of-home care, by caregiver type (per cent), as of 30 June 2017–2023.**

	2017	2018	2019	2020	2021	2022	2023
<b>Placed with relatives/kin or other Aboriginal carer</b>							
Aboriginal relative/kin	32.1	32.3	31.5	31.5	31.2	31.7	32.3
Non-Indigenous relative/kin	18.5	19.7	19.4	21.8	23.6	23.3	22.5
Total placed with relatives/kin	50.6	52.1	50.9	53.3	54.8	55	54.9
Other Aboriginal and Torres Strait Islander carer	7.1	8.1	7.4	7	6.2	6.2	5.8
<b>Total</b>	<b>57.7</b>	<b>60.2</b>	<b>58.3</b>	<b>60.2</b>	<b>61</b>	<b>61.2</b>	<b>60.7</b>
<b>In another care arrangement</b>							
Other non-Indigenous carer	23.1	24.3	26.2	24.8	25.3	23.3	22.8
Residential care or family group home	18	15.4	15.5	14.9	13.7	15.5	16.6
Independent living/living arrangements unknown	1.1	0	0	0	0	0	0
<b>Total</b>	<b>42.3</b>	<b>39.8</b>	<b>41.7</b>	<b>39.8</b>	<b>39</b>	<b>38.8</b>	<b>39.3</b>

Source: Report on Government Services 2024, Part F, Section 16 Child Protection Services, Table 16A23<sup>3</sup>

### Residential care

Placement in residential care should only be undertaken as an absolute last resort. Yet, over the past decade, South Australia has consistently placed far too many children in these facilities, and community stakeholders have highlighted the deeply problematic nature of this practice (SNAICC 2023:27). As of 30 June 2023, South Australia recorded the highest proportion of Aboriginal children in residential care or group homes of any jurisdiction at 16.6%, an increase from the rate of 15.5% in 2022, and a further increase from 13.7% recorded in 2021 (SCRGSP 2024, Table 16A.23). It is concerning that this percentage has increased since 2021, as the proportion of Aboriginal children placed in residential care or group homes decreased every year between 2017 and 2021 after peaking at 18.2% (SCRGSP 2024, Table 16A.23). As noted in the AIHW Child Protection Australia Report, in South Australia data regarding children in residential care includes those who are temporarily accommodated in commercial facilities such as private rental dwellings (AIHW 2023). Commercial care contractual arrangements in South Australia ceased as of 9 October 2020 (SA government, 2023).

Whilst DCP has introduced strategies and frameworks with the long-term goal of reducing the number of children placed in residential care the Guardian for Children and Young People (Guardian)

<sup>3</sup> Note 2017 and 2018 data included % for Aboriginal and Torres Strait Islander residential care and non-Indigenous residential care - these have been added together.

has called for the urgent need to improve the standard of care in these facilities to ensure that children and young people living in residential care are safe and have their needs and rights met (Guardian for Children and Young People, 2024). The Guardian highlighted the over-representation of Aboriginal and Torres Strait Islander children in residential care and significant discrepancies in key health and wellbeing outcomes (Guardian for Children and Young People, 2024).

### Active efforts

Engagement with ACCOs is an essential component in making active efforts to attempt placement at higher tiers of the hierarchy before non-compliant placement decisions are made. The Commissioner has noted that under the Children and Young People (Safety) Act 2017 (Act) consultation with a Recognised Aboriginal and Torres Strait Islander Organisation (RATSIO) is required only after a placement has been identified thereby excluding the RATSIO from having input into family scoping activities (CACYP 2023). The DCP Manual of Practice states that DCP case workers should request consultation with a recognised organisation before the placement begins when a placement is identified wherever possible. However, as expressed by the Commissioner, current practice renders RATSIO consultation as a ‘weak tick box exercise done after placement decisions have been made and often after placements have commenced’ (CACYP 2023). In February 2024, KWY Aboriginal Corporation was formally declared as a RATSIO under the Act, which increases the number of RATSIOs to two with KWY Aboriginal Corporation recognised alongside Aboriginal Family Support Services (AFSS).

### Other placement activities

DCP highlighted that the proposed amendments to the Children and Young People (Safety) Act 2017 will work to change the way that the placement hierarchy is articulated within the Act (SA Government 2023). Practice guidance has also been developed by DCP to support consultation with a recognised organisation. Legislative changes must ensure the legislation requires the highest level of consultation with Aboriginal people in relation to a placement and the highest level of connection possible with Aboriginal family, Community and culture is maintained for a child in care. DCP is committed to undertaking Aboriginal and Torres Strait Islander kin and community mapping at the earliest opportunity through the Taikurtirna Warri-apingi procedure program to identify appropriate Aboriginal and Torres Strait Islander kinship and community placement options for Aboriginal children and young people (SA Government 2023). The Taikurtirna Warri-apingi procedure program commenced in 2022.

Practitioners support DCP case management staff to engage more effectively with Aboriginal families for the purposes of identifying Aboriginal family, kin and Community decision-makers who can offer support and establish safety when a child enters care. The focus on finding family as soon as possible is further supported through the development of genograms detailing family structures and relationships. DCP provides practice guidance on the use of genograms as a practice tool for all practitioners. Family scoping and mapping are also supported through the Taikurtirna Warri-apingi procedure program. Unfortunately, the program has a poor rate of finding placement options for Aboriginal children and young people. The Commissioner has urged that the program must be run by communities, not by the government.

DCP has also partnered with the NPY Women's Council to implement an APY Lands kinship carer support program. The \$500,000 program employs a full-time team leader and full-time lands-based kinship care worker as well as several casual staff including a Malpa (friends on the journey) Aboriginal worker in Pukatja (Ernabella) (SA Government 2023). Kinship carer programs around Australia have demonstrated success in increasing the proportion of children placed with their Aboriginal kin. These announcements demonstrate a promising commitment to keeping Aboriginal children connected to their family, Community and culture.

## Participation

It is important that children in contact with the child protection system, along with their families, are actively involved in any decisions concerning their care. This is particularly important for Aboriginal and Torres Strait Islander children and young people.

### Family Group Conferencing

Family Group Conferencing (FGC) in South Australia is used in three circumstances for Aboriginal families; in pre-birth planning, with the goal of preventing infants from coming into care; as part of DCP protective interventions 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 (SA Government 2023).

In addition to the existing FGC program administered and funded by the South Australian Courts Administration Authority, DCP established Ngartuitya Family Group Conferencing (Ngartuitya FGC) in 2019–20, which is a separate FGC pilot program. This invested \$1.6 million in Relationships Australia to provide specialised assistance to families who are at risk of child removal or who already have children living in OOHC. The Ngartuitya FGC service is intended to have a strong focus on enabling Aboriginal families 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* (Aboriginal Action Plan) (DCP 2020b) 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 FGC also increased in 2020–21, compared to the first year of the pilot (SA Government 2023). Furthermore, over the first 22 months of the program's operation, agreements resulting from Ngartuitya FGC 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. While these early results are promising, Ngartuitya FGC, facilitated by RASA, 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.

DCP reported that, in 2020–21, it also provided \$151,000 of dedicated funding to AFSS to deliver an Aboriginal-led FGC service, which commenced in April 2021 (SA government 2023). This is a very positive development, with ongoing funding confirmed for this service with \$620,000 budgeted for the 2021–22 reporting year.

The Children and Young People (Safety) Act 2017 (Act) provides a set of formal processes for convening FGC including a requirement under Section 26 that any decisions made by agreement at FGC must be implemented unless the arrangements are not safe for the child. This highlights the critical need for the expansion of ACCO-led FGC services to align with the needs of all Aboriginal families engaged with the child protection system.

As noted by the Commissioner, self-determination will only be achieved with the insertion of mandatory, structured and culturally safe Aboriginal FGC that reaches into the child's family and community and puts them at the helm of decision-making' (CACYP 2023). Whilst DCP has highlighted the need for FGC in the review of the Act it does not commit to making this process mandatory (DCP 2022c). These processes need to be made available to all families to ensure that they are not locked out of decision-making processes.

In 2021–22, 74 Aboriginal-specific FGCs were held for a total of 119 Aboriginal children and young people (SA Government, 2023). This is well below the numbers of Aboriginal children and young people who were subject to a finalised investigation (1,459) or substantiation (822) in 2021–22 (SCRSGP 2024, Table 16A.1). The DCP Aboriginal Action Plan made a significant commitment under the Participation element to develop a family-led decision-making framework that focuses on Aboriginal families (DCP 2020C). Following on from this, the DCP Stretch Reconciliation Action Plan 2022–2025 specifically lists implementing family-led decision-making as a deliverable under the plan (DCP 2022a).

### Family-led decision-making

The DCP Aboriginal family-led decision-making (AFLDM) framework sets the objective of 'achieving culturally safe, collaborative, child-centred and family-focused decision-making to achieve positive outcomes for Aboriginal children and young people engaged with the child protection system' (DCP 2021d). The AFLDM framework identifies family-led decision-making as a 'crucial factor to address the over-representation of Aboriginal children and young people in the child protection system in South Australia' (DCP 2021d).

The *Report of the Independent Inquiry into Foster and Kinship Care* (Inquiry) was released in November 2022. The Inquiry found that although legal, policy and practice frameworks supported the Child Placement Principle, the reality of the application of those frameworks in practice, often in rushed and under-resourced circumstances and environments, meant inconsistent compliance with the Child Placement Principle and the best practice frameworks developed under it. There was an inconsistent implementation of policies which would have required proper familial and community consultation prior to decision-making (Government of South Australia 2021).

Whilst DCP has committed to family-led decision-making through several policies and reports, the Commissioner states 'it is largely a discretionary matter' as to how the principle of participation is operationalised in practice (CACYP 2023). In the *Preliminary Report of the Inquiry into the Application of the Aboriginal and Torres Strait Islander Child Placement Principle in the Removal and Placement of Aboriginal*



*Children in South Australia* (Preliminary Report), the Commissioner notes that ‘observations about practice from case file reviews indicate inconsistent attention to family-led decision-making and family group conferencing and inadequate scoping of family to participate in decision-making’ (CACYP 2023).

Under the Children and Young People (Safety) Act 2017 (Act), courts are unable to hear applications unless the child or young person to whom the applications relate is represented by a legal practitioner or the court is satisfied that the child or young person has made an independent and informed decision not to be represented. These provisions are not mandated in other decision-making processes, such as in the South Australian Civil and Administrative Tribunal, nor in internal reviews of DCP decisions. The Office of the Guardian for Children and Young People advocated for legislative amendments to be made to these settings in the 2022 legislative review of the Act, but noted that these recommendations were not included.

In the *Holding on to Our Future* report, the Commissioner recommended that the DCP’s current policy for AFLDM be replaced by a new policy that is developed in partnership with Aboriginal and Torres Strait Islander communities and organisations (CACYP 2024, p27). In the current child protection system, the Commissioner found that Aboriginal children and young people ‘are not adequately involved or empowered to participate in decisions about their care’ (CACYP 2024, p100).

## Connection

When placing an Aboriginal and Torres Strait Islander child in OOHC, maintaining a strong connection with culture, family and community is a vital component to ensuring a child’s ongoing wellbeing and safety. In the *Holding on to Our Future* report, the Commissioner found that the South Australian Government ‘does not understand what is required to meet Aboriginal children and young people’s cultural needs [and] Government cannot facilitate the connection of culture; it is for the Aboriginal community to fulfil this responsibility’ (CACYP 2024, p122).

## Reunification

Whilst removal and placement in OOHC is seen as an absolute last resort, when and if a child is placed in OOHC, all efforts to safely reunify the child with their family must be made.

Children on long-term guardianship custody orders (GCOs) and TPPROs are not generally considered to be candidates for reunification, due to the fact they are placed on orders that typically last until they are 18 years old—reflecting policymakers’ desires for permanent outcomes. Nationally, 73% of Aboriginal and Torres Strait Islander children in OOHC in 2021–22 were on long-term GCOs and TPPROs (AIHW, 2024d: Table S4.10). This means the majority of Aboriginal and Torres Strait Islander children in OOHC are on orders that do not prioritise reunification.

SNAICC has calculated the proportions of children reunified using the total number of children in OOHC, including children on long-term GCOs or TPPROs as the denominator (AIHW, 2024a: Table T3). Children on long-term orders have often progressed to long-term care as a result of inadequate efforts to prioritise reunification or even connection with their families—or inadequate efforts to support families to address the barriers to providing safe care for their children, or as a result of



policies that limit reunification due to short and unreasonable legislative or policy-imposed timeframes. Excluding these children from the denominator masks the failures of child protection systems to prioritise reunification and artificially inflates reunification rates. Including these children in these calculations provides a more accurate overview of the proportions of children reunified, even though children on long-term care orders are substantially less likely to be reunified.

As of 30 June 2022, 3.8% of Aboriginal children were reunified from OOHC (including long-term guardianship orders) in South Australia (AIHW 2024a T3, AIHW 2024b: Table 10.18). In comparison, 5% of non-Indigenous children were reunified from OOHC in the same period (AIHW 2024a T3, AIHW 2024b: Table 10.18).

Children who are reunified with their families from OOHC occasionally return to care, but this is not the case for the majority of children. This is significant because it is a potential indicator of whether the supports provided to the family has been sufficient and effective for the family in the long term. AIHW reports this data by whether a child returned to OOHC within 12 months after exiting to reunification. In South Australia, 85.3% of Aboriginal and Torres Strait Islander children who were reunified did not return to care within 12 months, slightly lower than the non-Indigenous rate of 94.3% (AIHW 2024a T3, AIHW 2024b: Table 10.18).

This was slightly above the national rate, where 83.1% of Aboriginal and Torres Strait Islander children who were reunified did not return to care within 12 months (85.6% for non-Indigenous children) (AIHW 2024a T3, AIHW 2024b: Table 10.19).

**Note:** *The source for these calculations has changed from previous reviews, due to changes in AIHW reporting. Source data is from Table 10.18 of the Aboriginal and Torres Strait Islander data table from Child Protection Australia 2021–22 (which includes reunifications for children on long-term orders) while previous reviews drew from Table S2.3a from the ATSCPP Supplementary tables 2022 released by AIHW (which excludes reunifications for children on long-term orders). Proportions have been calculated as the total number of Aboriginal and Torres Strait Islander children who exited to reunification (regardless of the type of reunification) each year divided by the number of Aboriginal and Torres Strait Islander children in OOHC and TPROs. The same formula was used for non-Indigenous children.*

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. DCP notes that in some cases, children and young people achieve permanency in kinship care with their Aboriginal families.

In the previous year's review, DCP noted that it has engaged Aboriginal organisations to deliver reunification supports, with AFSS and KWAY Aboriginal Corporation now both funded to deliver these services. DCP has signalled the development of further new investments in Aboriginal-led reunification

services, however detailed information regarding such investment is unavailable at the time of writing (SA Government 2023).

The Children and Young People (Safety) Act 2017 (Act) outlines 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' (s. 12(3)(b)). A 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 (s. 28(2)), this 'does not create legally enforceable rights or obligations' (s. 29(2)).

The Court does not have the power to make orders with respect to family contact for children under guardianship orders. These decisions are made internally by DCP and are only able to be reviewed through the Contact Arrangements Review Panel (CARP). The CARP procedure is available on the DCP website and provides 'instruction and guidance' for staff regarding decisions that relate to contact arrangements. Whilst this document states the 'panel must give specific consideration to the five elements of the Aboriginal Child Placement Principle' (SA Government, 2020d) there is no mandate for staff to report on how or if these elements have been considered. The CARP procedure also includes a requirement for an Aboriginal representative to be on the panel when reviewing a decision relating to an Aboriginal child or young person. As noted by the Commissioner 'there is no transparency in [CARP] operations and no policy that requires CARP to take the Child Placement Principle into consideration' (CACYP 2023:32).

### The Sanctuary Model

The previous review noted that 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, who are attached to MacKillop Family Services, and directly through DCP the 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, the 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. DCP has now embedded this model across residential care. Though no Aboriginal organisations have yet been involved in the implementation of this model, The Sanctuary Institute employed a specialist Aboriginal Cultural Advisor in the model's design.

The Guardian noted that whilst this model may have the best intentions to embed Aboriginal cultural responsiveness into residential care there are still significant gaps in the active efforts to keep Aboriginal and Torres Strait Islander children and young people connected to their family, culture and community (Guardian for Children and Young People, 2024). This model has not been widely accepted by ACCOs and further work needs to be done to develop a model in line with ACCO

sector expertise.

### Cultural support plans

DCP has focused closely in recent years on increasing cultural planning through the completion and ongoing review of Aboriginal Cultural Identity Support Tools (ACIST). In 2021, DCP embedded the ACIST in case plans for children and young people identified as Aboriginal and Torres Strait Islander (SA Government 2023). The ACIST must be reviewed regularly as part of the case plan review and annual review processes. Implementation of the ACIST aims to ensure that every Aboriginal and Torres Strait Islander child is given an opportunity to build and retain connections to family, Community and culture, regardless of where they are placed in care.

Upon release of DCP's first Aboriginal Action Plan, only 20.2% of Aboriginal children and young people in care had a completed ACIST (SA Government 2023). Promisingly, by 30 June 2022, this proportion had risen to 92.9% but, as of 30 April 2023, this proportion was 88.1% (SA Government 2023) Further, DCP reports that 90.9% of Aboriginal and Torres Strait Islander children in care in 2021–22 had a documented genogram (SA Government 2023). Whilst these rates of completion indicate a positive step forward, it is important to consider the substance and currency of the cultural support plans.

The Guardian and the Commissioner both raised concerns that the completion of an ACIST has little bearing on the efforts made by DCP in promoting cultural supports and connections for Aboriginal and Torres Strait Islander children and young people in care (Guardian for Children and Young People, 2024). In 2022–23, the Guardian found that 149 Aboriginal and Torres Strait Islander children indicated concerns regarding the extent to which key indicators of cultural support planning were incorporated. This research found that less than one in two children had been supported to connect with their communities or had a cultural mentor. The Holding on to Our Future report also found that consultation on the development of cultural maintenance plans was not occurring in accordance with the relevant Regulations and that it should occur with an ACCO or member of the Aboriginal community to which the child belongs (CACYP 2023: 121).

DCP also provides funding for Return to Country and Connection to Country activities for children and young people in care. These activities are provided for on a case-by-case basis and are tailored to the individual child or young person.

Whilst the DCP practice manual provides information on the development of cultural maintenance plans, there is 'no guidance to the case worker about how to find a community member or ACCO connected to the child's community' (CACYP 2023:33). DCP states that the ACIST is reviewed as part of the case plan and annual review processes and that community representatives can be included in these processes. As identified by the Commissioner, 'the ACIST section of the case plan template prompts the case worker to record details such as family, kin, mentors or elders who have been consulted or whether a Principal Aboriginal Consultant (PAC) has been consulted, but in the observation of case files, there is infrequent engagement with community members in development of

the cultural maintenance plans' (CACYP 2023:33). This is particularly relevant as it reaffirms the concern that while ACIST completion rates are high they are not meeting the intended purpose.

Whilst the implementation of the ACIST is a step in the right direction, there is significant reform needed to ensure compliance with the Connection element of the Child Placement Principle. Despite high rates of ACIST implementation, just 23.4% of Aboriginal children in OOHC were able to reconnect with their relatives/kin through placement change during 2021–22 (AIHW 2024). In circumstances where children are placed in OOHC, it is critical that family-led decision-making contributes to decisions about long-term placement. While in OOHC, opportunities for connection to family, Community and culture should be explored and strengthened. Alongside the high rates of children in OOHC who are less likely to be considered for reunification as noted above, this indicates widespread failure to ensure Aboriginal children removed into OOHC maintain their connections to their family, Community and culture.

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