

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

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## Acronyms and abbreviations

Acronym	Full name of acronym
ACCOs	Aboriginal and Torres Strait Islander community-controlled organisations
AEDC	Australian Early Development Census
AIHW	Australian Institute of Health and Welfare
CFLCs	Child and Family Learning Centres
CHAC	Circular Head Aboriginal Corporation
Child and Youth Wellbeing Strategy	It Takes a Tasmanian Village: Child and Youth Wellbeing Strategy
Child Placement Principle	Aboriginal and Torres Strait Islander Child Placement Principle
CSS	Child Safety Service
DECYP	Department for Education, Children, and Young People
DPC	Department of Premier and Cabinet
EPR	Enduring Parental Responsibility
FGC	Family Group Conferencing
FLDM	Family-Led Decision-Making
FSS	Family Support Services
GCOs	Guardianship Custody Orders
IFES	Intensive Family Engagement Services
IFSS	Intensive Family Support Services
MRF	Monitoring and Review Framework
National Agreement	National Agreement on Closing the Gap
OOHC	Out-of-home care
RFGP	Request for Grants Process
ROGS	Report on Government Services
Safe and Supported	Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031
SCRGSP	Steering Committee for the Review of Government Service Provision
SNAICC	SNAICC – National Voice for our Children
TAC	Tasmanian Aboriginal Corporation
TALS	Tasmanian Aboriginal Legal Service
Tasmanian OOHC Standards	Tasmanian Out of Home Care Standards
TPPROs	Third-party parental responsibility orders

## Introduction

This report reviews the progress of the Tasmanian Government, primarily through the Department for Education, Children and Young People (DECYP), 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 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.

## Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings

In August 2023, the Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse in Institutional Settings (Commission of Inquiry) delivered its final report, which involved several recommendations regarding the implementation of the Child Placement Principle. The Tasmanian Government responded, in December 2023, committing to a raft of actions to be implemented across 2024 to 2029. Many of the actions represent existing commitments that are overdue from the *Strong Families Safe Kids: Next Steps Action Plan 2021–2023*, such as a review of the *Children, Young Persons and their Families Act 1997*. Timely implementation of these actions is vital to ensure progress on all five elements of the Child Placement Principle in Tasmania.

## 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, as of 30 June 2023, Aboriginal children in Tasmania were 5.6 times more likely than non-Indigenous children to be in OOHC or other supported placements (SCRGSP 2024, Table 16A.2, 16A.3 and 16A.42). This is the highest ever recorded rate of over-representation in Tasmania, which has steadily been growing over the past decade<sup>1</sup>.

In 2022–23, Tasmania invested 25.4% of its expenditure on child protection into Family Support Services (FSSs) and Intensive Family Support Services (IFSSs) (SCRGSP 2024, Table 16A.8). However, family violence counselling services are included in Tasmania's reporting of family support services expenditure, which is inconsistent with national reporting of FSSs and IFSSs expenditure.

The Tasmanian Aboriginal Centre (TAC) provides FSSs and Intensive Family Engagement Services (IFESs) statewide. It is unknown what percentage of total child protection expenditure for FSS and IFSS statewide supported Aboriginal children and families.

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<sup>1</sup> SNAICC rate ratio calculation, see below Figure 1 for technical notes.

## Partnership

In response to the Commission of Inquiry, the Tasmanian Government has committed to establishing a Commissioner for Aboriginal Children and Young People by 2026. There are also several commitments to transforming the DECYP to ensure it is responsive to Aboriginal community needs, including the appointment of an Executive Director for Aboriginal Children and Young People for the whole of the DECYP by 2026.

The Tasmanian Government continued its Closing the Gap Capacity Building Grant Program, accepting applications for the second grant round by June 2023. ACCOs were funded in the previous round, such as \$1.5 million to TAC, which included a program to test the transfer of OOHC services away from government.

## Placement

As of 30 June 2023, only 17% of Aboriginal children in Tasmania in OOHC were placed with Aboriginal relatives/kin. This is far below the national average of 32.2% (SCRGSP 2024, Table 16A.23). Despite this, there was an increase over time in the combined proportion of children placed with Aboriginal relatives, kin or carers—in 2023, 24.6% were placed with Aboriginal carers, nearly double the rate in 2017 (SCRGSP 2024, Table 16A.23). There has been an increased focus on identification of Aboriginal children in OOHC, however, there is still a remaining issue of carers with an unknown Aboriginal status, which makes the assessment of placement in accordance with the Child Placement Principle difficult (SNAICC 2023).

## Participation

Action 56 of *It Takes a Tasmanian Village: Child and Youth Wellbeing Strategy* (Child and Youth Wellbeing Strategy) states that the DECYP will work with ACCOs to ensure that there are Aboriginal Family Group Conference (FGC) facilitators to oversee conferences that involve Aboriginal children. Unfortunately, this action has not been completed and there are still no Aboriginal facilitators. This action will require consultation, capacity building and training within Aboriginal organisations.

There is a lack of participation of Aboriginal people in child protection decision-making, with the Commission of Inquiry making several recommendations for legislative change to ensure that Aboriginal organisations are required to be involved, which the Government agreed to implement by 2029. In 2023, the Child Safety Service (CSS) implemented a new decision-making forum for collaborative decision-making on child safety matters. Organisations and family members representing Aboriginal children and young people form part of a panel and provide input to safety and wellbeing matters. In 2023, the DECYP also released *Feel Safe Are Safe: Our Practice Approach*, which sets out standards for practice in Child Safety, including cultural safety for Aboriginal families, inclusion and responsiveness to diversity and child-centred, rights-based participation.

## Connection

In June 2022, the *Tasmanian Out of Home Care Standards* (Tasmanian OOHC Standards) were released, which require providers to ensure connection of Aboriginal children to family, community and culture. The Tasmanian Government is also currently considering options to ensure connection for children

placed with non-Indigenous carers in response to Recommendation 9.15f of the Commission of Inquiry that called for partnership with Aboriginal communities to design and establish Aboriginal-led therapeutic residential programs.

60% of Aboriginal children in OOHC in Tasmania had a cultural support plan in 2022, which is well below the national average of 78% (AIHW 2024, Table 10.5). As of 30 June 2022, 9.3% of Aboriginal children in OOHC, including those on long-term guardianship, long-term custody and third-party parental responsibility orders (TPPROs), were reunified with family (AIHW 2024a T3, AIHW 2024b: Table 10.18).

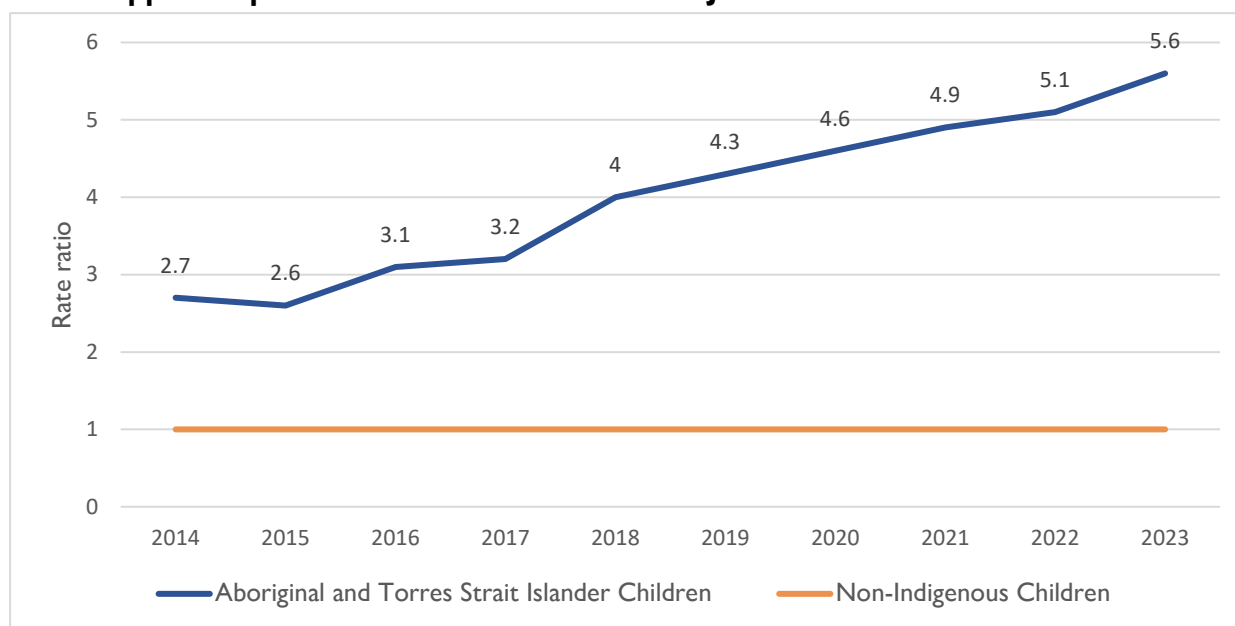
## Prevention

The prevention element of the Child Placement Principle aims to ensure that Aboriginal 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.

As of 30 June 2023, Aboriginal children in Tasmania accounted for 38.6%—471 out of 1,219 children—of the total number of children in OOHC or in other supported placements despite only making up 10.3% of the population of children aged 0–17 in Tasmania (SCRGSP 2024, Table 16A.2, 16A.3 and 16A.42). This is compared to a proportion of 36.4%—461 out of 1265 children—in 2022 and 35.7%—464 out of 1299 children—in 2021 (SCRGSP 2024, Table 16A.2, 16A.3 and 16A.42).

As of 30 June 2023, Aboriginal children were 5.6 times more likely than non-Indigenous children to be in OOHC or in other supported placements, climbing from 5.1 times more likely in 2021–22 (SCRGSP 2024, Table 16A.2, 16A.3 and 16A.42).<sup>2</sup> This is the highest rate of over-representation of Aboriginal children in the child protection system in Tasmania seen in the past decade (*see Figure 1*).

**Figure 1 – Rate ratios of Aboriginal and Torres Strait Islander children in OOHC and other supported placements in Tasmania 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

<sup>2</sup> National out-of-home care counting rules changed for all states and territories in 2018-19 and now exclude children on third-party parental responsibility orders (TPPROs) from the count of children in OOHC. SNAICC believes that this change seriously undermines transparency and accountability, effectively rendering these children invisible in the system. The number of children on TPPROs is reported in the annual AIHW *Child Protection Australia* publication. Children in 'other supported placements' includes TPPROs and certain types of immigration orders. SNAICC has elected to use data on other supported placements for 2022-23 as disaggregated data about children on TPPROs has not yet been released. Past years' data are included for comparison. Because these calculations are based on other supported placements, they will differ slightly from overrepresentation data which only includes children in out-of-home care and on TPPROs. For calculations of overrepresentation rates based on only children in out-of-home care and on TPPROs, see the annual *Family Matters* Reports.



Part of the reason for this increasing rate of over-representation is that Tasmania has one of the lowest rates of Aboriginal children exiting care—at 6.7 per 1,000 children in 2022–23—far below the national average rate of 12.3 exits per 1,000 children (SCRGSP 2024, Table 16A.4). This was relatively unchanged from the 2021–22 rate of 6.4 and a slight increase from 2020–21 with a rate of 5.6 Aboriginal children per 1,000 exiting care (SCRGSP 2024, Table 16A.4). It should be noted the rate of Aboriginal children being admitted into OOHC is relatively low at 5.5 per 1,000 in 2022–23, 4.4 per 1,000 in 2021–22 and 4.5 per 1,000 in 2020–21 (SCRGSP 2024, Table 16A.4). However, the rate of admission over-representation for Aboriginal children remained high due to the rate of admission for non-Indigenous children falling to an all-time low of 0.6 children per 1,000 in 2022–23 (SCRGSP 2024, Table 16A.4). These figures clearly demonstrate an urgent need to prevent Aboriginal children from entering the child protection system as called for by the prevention element of the Child Placement Principle.

From 2021 to 2023, the Tasmanian Government continued its implementation of the *Strong Families Safe Kids: Next Steps Action Plan 2021–2023* (Action Plan), which aims to reform the CSS. Beyond the Action Plan, the Tasmanian Government also committed \$12.6 million over the forward estimates in the 2023 Budget to CSS reforms (DPC 2023).

Despite completing some of the 34 Actions in the Action Plan many remain incomplete highlighting the need for greater investment and action from the Tasmanian Government. The Tasmanian Government is yet to deliver on Action 3 the review of the Children, Young Persons and their Families Act 1997 (Act). In 2021, the Tasmanian Government noted that this review had commenced and was anticipated to be completed in 2023. The Commission of Inquiry has also made recommendations regarding reviewing the Act, which is being incorporated as part of the review scope. Consultation to support the review is anticipated to commence in early 2025.

On 31 August 2023, the Commission of Inquiry delivered its final report, which had significant input from Aboriginal leaders, organisations and communities and resulted in strong recommendations particularly in regard to the implementation of the Child Placement Principle (see Attachment A). On 1 December 2023, the Tasmanian Government released its response *Keeping Children Safe and Rebuilding Trust*, which outlines timelines for achieving the recommendations. The Tasmanian Government agreed to the recommendation that the DECYP develop a strategic plan for OOHC, though, only by 2029. The Tasmanian Government reported a commitment to developing a child sexual abuse strategy with input from relevant Aboriginal organisations. Other recommendations and the Government's response are referenced throughout this review.

### Family Support and Intensive Family Support Services

In 2022–23, the Tasmanian Government invested 25.4% of its expenditure on child protection into Family Support Services (FSSs) and Intensive Family Support Services (IFSSs) (SCRGSP 2024, Table 16A.8). This was a slight decrease from 27.8% in 2021–22 and similar to 25.2% in 2020–21. Taking a longer view it is a significant jump from a proportion of 13.1% in 2017–18. However, the Tasmanian Government includes family violence counselling services in FSS expenditure, which is an anomalous

classification of family violence services when compared to other states and territories and national definitions of FFS and IFSS (SNAICC 2023). This skews Tasmania's real recurrent IFSS expenditure per child of \$128.02 in 2021–22 and \$116.82 in 2022–23, which is relatively high compared to other states and territories.<sup>3</sup>

The Tasmanian Government reported that, in 2021–22, 1,739 children commenced IFFSs. Unfortunately, this data is not disaggregated by Aboriginal and Torres Strait Islander status, which is an issue that has arisen consistently in previous years despite other states and territories reporting this data. This is a data gap that must be addressed.

Unfortunately, the Tasmanian Government was unable to provide data on the proportion of funding for FFS and IFSS that went to ACCOs for 2021–22. This is in comparison to other states and territories that were able to provide 2021–22 data and represents a significant data gap that should be resolved. In the previous Child Placement Principle review period of 2020–21, the proportion of FFS and IFSS funding to ACCOs was 0.79%, far lower than other states and territories.

The Tasmanian Government noted that in 2023–24 there is funding provided to TAC to deliver FFS and IFSS (DECYP 2023a). A 2019 evaluation of the TAC program found it to be highly effective with almost 70% of the families that completed the program continuing to care for their children (Commission of Inquiry 2023, p.139). The Commission of Inquiry recommended that investment should be increased in Aboriginal-led targeted early intervention and prevention services to a rate equivalent to the proportion of Aboriginal children in OOHHC.

### Strong Families Safe Kids Advice and Referral Line

The Strong Families Safe Kids Advice and Referral Line (ARL) was established in 2018 as a place for anyone to call for advice about concerns for a child's safety and wellbeing. The Tasmanian Government notes that in 2023–2024, TAC and Circular Head Aboriginal Corporation (CHAC) have been funded \$350,760 in total to support Aboriginal Liaison Officer roles that help with the delivery of the ARL and related services (DECYP 2023a). This is consistent with the previous review where TAC and CHAC were funded over \$300,000 for similar services. Although three roles have been funded, of concern, in the Tasmanian Government's recent response to the Commission of Inquiry it was noted there were currently only two Aboriginal Liaison officers within the ARL (Tasmanian Government 2023a). DECYP report this will be addressed through recruitment. It is also important to note that a 2022 audit by the Tasmanian Auditor-General of the ARL found that the Aboriginal Liaison Officers 'have wide coverage and limited capacity and are not resourced to deliver fully all aspects of their role' (Tasmanian Audit Office 2022). Subject to confirmation of funding, the DECYP intends to create Aboriginal Liaison Officer roles within the CSS in 2024–2025.

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<sup>3</sup> Time series data relating to expenditure per child is adjusted each year using the General Government Final Consumption Expenditure chain price deflator. This means that previous year expenditure data (such as 2021-22) has been adjusted and will not be consistent with past publications, including the Family Matters 2023 Report.

## Early childhood care and development

In August 2021, the Tasmanian Government released the *It Takes a Tasmanian Village: Child and Youth Wellbeing Strategy* (Child and Youth Wellbeing Strategy) with a focus on the first 1,000 days of a child's life. The Child and Youth Wellbeing Strategy involves actions spanning from 2021–2025. Action 54 of the Child and Youth Wellbeing Strategy commits to extending the Connected Beginnings program to two more Tasmanian sites, beyond the current program in nipaluna/Hobart suburbs of Bridgewater/Gagebrook. Other Actions from the Child and Youth Wellbeing Strategy are outlined later in this review as they relate to other Child Placement Principle elements.

The Tasmanian Government also made a \$28 million commitment to build six new Child and Family Learning Centres (CFLCs) across Tasmania. These six new CFLCs will all be operating by the end of 2024. tagari lia CFLC in Bridgewater and wayraparattee CFLC in Geeveston were originally funded through an Australian Government initiative to support Aboriginal and Torres Strait Islander young children and their families to have access to education and health supports for the successful transition to school. The DECYP now fund both CFLCs. All 18 CFLCs support Aboriginal Torres Strait Islander children and their families with access to culturally appropriate services and supports.

These investments are welcome as they can continue to build Tasmania's good progress in supporting Tasmania's youngest children to be known, safe, well and learning. In 2021, Tasmania had the highest proportion of any state and territory of Aboriginal children on track in all five domains of the Australian Early Development Census (AEDC) (SNAICC 2023, p.56).

A program under the Child and Youth Wellbeing Strategy with specific relevance to the Child Placement Principle is the Bringing Baby Home Program delivered by TAC. The Bringing Baby Home Program provides pre- and post-birth support for parents who have been assessed as being at risk of having their infant removed into OOH. In the Bringing Baby Home Program, CSS, TAC and the family work collaboratively through a care team model to support the family's success in the program. Where TAC does not have capacity—or parents are not eligible for the service—they are referred to alternative service providers who have cultural support workers who work in a care team model and engage with the local Aboriginal community.

## 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. This can impact a family's ability to provide a safe and nurturing home for their children putting them at an increased risk of ongoing cycles of disadvantage.

The relationships between social determinants and the primary reasons for child protection involvement are complex. There is a multi-faceted and 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 and families to thrive.

Community consultation to inform the recent Commission of Inquiry highlighted that there is a lack of appropriate support services for Aboriginal children and families. The Commission of Inquiry reported that consultations highlighted a lack of affordable housing and culturally safe services particularly in the fields of mental health, family violence and alcohol and other drug support (Commission of Inquiry 2023, p.138). In its submission to the Commission of Inquiry, the Tasmanian Aboriginal Legal Service (TALS) recommended that significant investment is needed in these areas (TALS 2022). Support services are needed given the high rates of disadvantage—according to the 2016 Socio-Economic Indexes of Areas (SEIFA), 53.7% of Aboriginal people in Tasmania live in areas ranked in the most disadvantaged quintile, the third highest proportion in Australia after South Australia at 54.5% and the Northern Territory at 66.3% (AIHW & NIAA 2023). A range of activities from the Tasmanian Government has aimed to address this lack of support, detailed below.

### **Housing**

In response to key recommendations made by the *Under 16 Homelessness Taskforce*, the Tasmanian Government committed \$10 million over four years for an *Under 16 Lighthouse Pilot Project*. The Pilot Program includes a pilot Therapeutic Residential Model of Care, which includes accommodation for young people who are not in the care of the state and are unable to live at home, with a focus on therapeutic care and family restoration. The service is available to all eligible young people but is not specifically designed for Aboriginal young people. The service commenced in September 2023 and currently has three years of funding.

### **Family violence**

Tasmania's *Third Family and Sexual Violence Action Plan 2022–2027: Survivors at the Centre* (Action Plan) was released in November 2022. The Action Plan included an action to continue the delivery of Aboriginal Family Safety Workers in CFLCs. However, it should be noted that there has been an apparent reduction in the number of Aboriginal families supported by the program with the 2021 monitoring report stating that 923 families were supported in 2020–21 dropping to 443 families in 2021–22 (Tasmanian Government 2023b). The DECYP reports this is due to changes in reporting methods that conflated the actual numbers of Aboriginal families supported and reporting improvements include children having a unique identifier and data collection now occurring quarterly. In the Action Plan, there is also a commitment to develop further actions specific to Aboriginal children and families from 2023–24.

### **Health**

Aboriginal Health Liaison Officers currently provide culturally safe support to Aboriginal children and

families when they visit hospitals with two positions in the north and a Senior Social Worker (identified position) in the south (DECYP 2023a). In March 2023, the Tasmanian Government committed \$6 million over three years for Kids Care Clinics that provide targeted support to vulnerable children with ACCOs able to refer children to the clinics. Implementation of the *Improving Aboriginal Cultural Respect Across Tasmania's Health System Action Plan 2020–2026* continues including governance mechanisms to ensure Aboriginal-led oversight of the health system.

### **Early contact with Youth Justice**

There are significant issues within Tasmania's justice system that contribute to cycles of discrimination and disadvantage for Aboriginal children and families making them relevant to the prevention element. These issues include the need to close the Ashley Youth Detention Centre and establish an Aboriginal youth justice diversion program for a more effective and therapeutic approach to supporting Aboriginal young people involved in the criminal justice system, as advocated for by the Aboriginal community (TAC 2023). In its response to the Commission of Inquiry, the Tasmanian Government has committed to developing an Aboriginal youth justice strategy by 2026 (Tasmanian Government 2023a).

Another issue present is in the way Tasmania Police address prejudice and bias when responding to child neglect and abuse particularly relevant in the context of misconceptions about Aboriginal child-rearing practices. The Commission of Inquiry recommended that Tasmania Police review their child sexual abuse training to account for 'myths and misconceptions' regarding vulnerable children (Tasmanian Government 2023a). Another issue is the need to raise the minimum age of criminal responsibility. In December 2023, the Tasmania Government released the *Youth Justice Blueprint 2024–2034* which outlines the Tasmanian Government's 10-year plan to reform the youth justice system, which includes a commitment to raising the minimum age of criminal responsibility from 10 to 14 with no exceptions by 2029 (HRLC 2023).

## **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 in 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 this essential principle.

Across 2021 and 2023 there were several promising commitments in regard to enhancing partnership in Tasmania, but these must be followed through in a timely manner to see actual positive impacts for Aboriginal children and families.

Perhaps the most significant development is a commitment from the Tasmanian Government to establish a Commissioner for Aboriginal Children and Young People. The establishment of a Commissioner for Aboriginal Children and Young People was recommended by the Commission of

Inquiry—as well as being continually advocated for by the Aboriginal community—which the Government agreed to. Currently, there is a Commissioner for Children and Young People in Tasmania, and the Tasmanian Government has agreed to establish a Commission for Children and Young People (Commission) that would include the existing Commissioner for Children and Young People role, a Commissioner for Aboriginal Children and Young People role and a Child Advocate (Deputy Commissioner) role. The Commission will be separately funded rather than receiving its funding allocation through the DECYP. The Tasmanian Government has committed to introduce legislation in 2024–2025 to establish the Commission, and for the Commissioner for Aboriginal Children and Young People to be established by 2026 (Commission of Inquiry 2023, p.81, p.118).

Funding to Aboriginal organisations and representatives to meaningfully participate in partnership efforts is vital as recommended by TALS in its submission to the Commission of Inquiry (TALS 2022). Comprehensive data on funding to ACCOs in 2021–22 and 2022–23 was not provided by the Tasmanian Government making detailed funding analysis difficult. However, information on funding to ACCOs is still available via other program announcements. Under the Tasmanian Government’s *Closing the Gap Tasmanian Implementation Plan 2021–2023* (Implementation Plan) there are three distinct actions that relate to child protection, which aim to increase Aboriginal-led programs, decision-making and self-determination. To support actions in the Implementation Plan, the Tasmanian Government has a Closing the Gap Capacity Building Grant Program, which recently completed a grant funding round in 2022–23 and was receiving the next round of grant applications by 30 June 2023.

The 2022–23 round involved over \$3.2 million of investment to ACCOs (DPC 2022). In 2023, the Department of Premier and Cabinet agreed to provide TAC with a grant of \$1.5 million under the Closing the Gap Capacity Building Grant Program (Grant Program). The purpose of the grant was to develop an evidence-based and community-led model to transfer responsibility of control of Aboriginal children in Tasmania to the palawa community. An outcome of the project will be the development of a strategy and action plan (Tasmanian Government 2023a). TAC reported that, in 2023, they commenced the Strong, Together and Connected project using part of the Grant Program funds, which aims to develop an evidence-based and culturally safe child safety service strategy. The Grant Program was recently criticised by the Commission of Inquiry as lacking details, timeframes and more information on specific funding allocations (Commission of Inquiry 2023, p.143). The Commission of Inquiry made several recommendations for how Government departments, particularly the DECYP, collaborate and partner with Aboriginal people. If properly implemented these can significantly increase the participation of the Aboriginal communities in service reform, design and delivery.

As evidence from TAC to the Commission of Inquiry highlighted the DECYP must drastically improve its ways of working, as it has:

- not always been willing to work with TAC to identify placement options for Aboriginal children
- allowed non-Aboriginal non-government organisations to provide services to Aboriginal

- children in OOHC without consultation with the Aboriginal community
- on occasion failed to notify TAC when Aboriginal children in OOHC have been moved to different placements with some children ‘lost to the community’ for a period
- ignored warnings from TAC staff of suspected sexual abuse or neglect by foster carers and—where those suspicions had been confirmed—failed to explain departmental decision-making processes (Commission of Inquiry 2023, p.142).

The Commission of Inquiry recommendations that relate to transforming how the Tasmanian Government, and particularly the DECYP, collaborate with Aboriginal communities include:

- **Recommendation 9.6 (2a):** establishing a permanent OOHC advisory group to be involved in developing the OOHC strategic plan and have ongoing input into the OOHC system
  - this group should include Aboriginal people
  - the Tasmanian Government has accepted this and will implement it by 2026.
- **Recommendation 9.7:** the DECYP should appoint an Executive Director for Aboriginal Children and Young People for the whole of the Department
  - the Tasmanian Government has accepted this and will implement it by 2026.
- **Recommendation 9.14a:** adopting and reporting on measures to reduce institutional racism and supporting decolonising practices in the DECYP to reduce the over-representation of Aboriginal children in OOHC.

The TAC, in partnership with the DECYP, established the palawa Safe and Supported Working Group (Working Group) in 2022, which focuses on all eight actions of the *Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023–2026* (Safe and Supported First Action Plan). Some outcomes from the Working Group include developing cultural awareness training specifically for Child Safety staff, co-designing policy advice for staff, identifying families for case management by the TAC and ensuring representation in decision-making for Aboriginal children and families (Tasmanian Government 2023a).

In addition to the above, the Tasmanian Government, in its response to the Commission of Inquiry, agreed to establish three consultation networks to guide a whole-of-government legislative program that will help implement recommendations. These consultation networks include a Lived Experience Consultation Network—victim-survivors and people with lived experience, a Children and Young People’s Consultation Network and a Tasmanian Aboriginal Consultation Network (Tasmanian Government 2023a).

While it is promising to see this activity from the Tasmanian Government, the degree to which it achieves genuine partnership with Aboriginal people remains to be seen. Any partnership activity should strive to meet provisions in Priority Reform 1 of the National Agreement, where decision-making is shared between governments and Aboriginal people. Some of the above actions—such as an OOHC advisory group and ‘consultation networks’—appear to be reinforcing the government as the sole decision-maker. It should be noted that the above Recommendations 9.7 and 9.14a from the Commission of Inquiry show a commitment to upholding Priority Reform 3 of the National

Agreement regarding transforming government organisations by eliminating racism and embedding cultural safety.

Not included in the above recommendations or actions are steps towards a dedicated Aboriginal peak body for Aboriginal children and families, which as evidence has shown in other states and territories, is a core pillar of partnership with Aboriginal people.

## Placement

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

In Tasmania, Section 10G of the Children, Young Persons and their Families Act 1997 requires that ‘as far as is practicable’ Aboriginal children should be placed in the following order of priority:

1. with a member of the child’s family
2. with an Aboriginal person in the child’s community in accordance with local community practice
3. with another Aboriginal person
4. with a person who is not an Aboriginal person but ‘in the Secretary’s opinion, is sensitive to the child’s needs and capable of promoting the child’s ongoing affiliation with the culture of the child’s community and, if possible, the child’s ongoing contact with his or her family’.

The section also states that placement of a child should be in close proximity to their family. The above hierarchy is very close to the Child Placement Principle hierarchy but lacks the distinction under the first level that placement with Aboriginal relatives or extended family members is a priority (SNAICC 2018a). This distinction is important when analysing data on how placement is occurring in Tasmania. Work is currently underway in the DECYP to ensure consistent policy to support timely decision-making for Aboriginal children and young people in OOHC, enabling stable and permanent outcomes. The policy will further embed the Child Placement Principle into practice. As Table 1 highlights only 17% of Aboriginal children in OOHC were placed with Aboriginal relatives/kin as of 30 June 2023. This is far below the national average of 32.2% (SCRGSP 2024 Table 16A.23).

**Table 1 – Aboriginal children in Tasmania 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	8.5	11.1	10.7	12.0	17.0	8.5	11.1
Non-Indigenous relative/kin	29.1	30.8	32.3	33.0	30.4	29.1	30.8
Total placed with relatives/kin	37.6	41.9	42.9	45.0	47.3	37.6	41.9



Other Aboriginal and Torres Strait Islander carer	4.5	np	5.0	6.1	7.6	4.5	np
<b>Total</b>	<b>42.1</b>	<b>46.5</b>	<b>47.9</b>	<b>51.2</b>	<b>54.9</b>	<b>42.1</b>	<b>46.5</b>
<b>In another care arrangement</b>							
Other non-Indigenous carer	50.8	46.8	45.9	42.5	38.5	50.8	46.8
Residential care or family group home	6.9	np	5.5	5.6	6.1	6.9	np
Independent living/living arrangements unknown	0.3	–	0.7	0.8	0.5	0.3	–
<b>Total</b>	<b>57.9</b>	<b>53.5</b>	<b>52.1</b>	<b>48.8</b>	<b>45.1</b>	<b>57.9</b>	<b>53.5</b>

Source: Report on Government Services 2024, Part F, Section 16 Child Protection Services, Table 16A.23

Between 2019 and 2023 there has been a near doubling of the proportion of children placed with Aboriginal relatives and carers from 13% to 24.6%. The increase can be partly attributed to the increasing identification of both Aboriginal children as well as Aboriginal carers in Tasmania. In the Tasmanian Government's response to the previous Child Placement Principle review it was noted that, as of 30 June 2021, 98.3% of children in OOHC had a known Indigenous status, which was an increase on 70.3% in 2018 (DECYP 2021). While this is promising for identification of children, identification of carers remains an issue which prevents accurate reporting on placement with Aboriginal carers (SNAICC 2023).

Aside from identification, there is a lack of government support to enable Aboriginal relatives, kin and carers to take on a care role for a child. The Commission of Inquiry heard from consultations with communities that Aboriginal carers want to look after Aboriginal children, but they do not always receive the support they need to be able to do so (Commission of Inquiry 2023, p.145). As highlighted in the previous Child Placement Principle review, this reveals a deeper issue of ACCOs in Tasmania not being funded to find, assess, recruit and support kinship carers (SNAICC 2021).

## 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.

The DECYP reported that there were 69 Family Group Conferences (FGCs) involving Aboriginal families in 2021–22 involved a total of 115 Aboriginal children (DECYP 2023a). This is an increase from 91 children in 2020–21 and 35 children in 2019–20 (SNAICC 2021; SNAICC 2020). Action 56 of the Child and Youth Wellbeing Strategy states that the DECYP will work with ACCOs to ensure that there are Aboriginal FGC Facilitators to oversee conferences that involve Aboriginal children. Unfortunately, this action has not been realised and there are still no Aboriginal facilitators (TAC 2023).

The previously mentioned pilot of an Early Intervention Unit to deliver pre-litigation, non-legal

advocacy support for families engaged in the child protection system has not progressed since the previous review in 2021. The DECYP continue to consider the legal and non-legal support and advocacy support required for children, young people and their families to better understand any service gaps and opportunities to improve outcomes for children and young people (DECYP 2023a). In relation to case management, Action 57 of the Child and Youth Wellbeing Strategy commits the DECYP to develop an Aboriginal-led case management model for children in care in partnership with ACCOs. Unfortunately, this action is also yet to be fully realised.

The DECYP stated in their response to the review that there is no data available for 2021–2023 on family-led decision-making (FLDM) or other similar processes, making an assessment of progress difficult. The DECYP has been delivering ‘individualised service packages within the CSS for Aboriginal children in the South of the State, as a precursor to a case management model, delivered by ACCOs’ (DECYP 2023a). This is a step in the right direction, but further action will be needed to properly realise Aboriginal-led case management based on Aboriginal ways of knowing, being, and doing for children.

In 2023, the CSS implemented a new decision-making forum for collaborative decision-making on child safety matters. Organisations and family members representing Aboriginal children and young people form part of a panel and provide input to safety and wellbeing decisions. In 2023, the DECYP also released *Feel Safe Are Safe: Our Practice Approach*, which sets out standards for practice in child safety, including cultural safety for Aboriginal families, inclusion and responsiveness to diversity and child-centred, rights-based participation. The lack of participation of Aboriginal people in child protection decision-making attracted significant attention from the Commission of Inquiry, which highlighted that, currently, the *Children, Young Persons and Their Families Act 1997* does enable the Minister to declare Aboriginal organisations that should be included in decision-making processes, however, this mechanism ‘appears unused’ (Commission of Inquiry 2023, p.149).

It is unsatisfactory that this legislative provision exists but remains unused given the potential for greater participation of the Aboriginal community in decision-making. The Commission of Inquiry made the following recommendation to ensure that the legislative mechanism is used:

“Recommendation 9.15d: introducing legislation to amend the *Children, Young Persons and Their Families Act 1997* to

- i. require decision makers to consult with a relevant recognised Aboriginal organisation in relation to any decision likely to have a significant impact on an Aboriginal child—in particular, decisions about whether to remove a child from their family and where a child should live
- ii. require the involvement of a relevant recognised Aboriginal organisation nominated by an Aboriginal child, or their advocate, in family group conferences, case planning and cultural support planning in respect of the child

- iii. create a statutory framework and plan co-designed with Aboriginal communities for transferring child safety decision-making authority for Aboriginal children to recognised Aboriginal organisations”

The Commission of Inquiry also made other recommendations that, if implemented, would enable these legislative mechanisms to be effectively used, which include:

“Recommendation 9.15e: partnering with Aboriginal communities to

- i. promote and support establishing recognised Aboriginal organisations with local knowledge of Aboriginal children, families and communities, to facilitate the participation of Aboriginal children and families in child safety and out-of-home care decision-making processes
- ii. develop a model or models for the transfer of child safety decision-making authority to recognised Aboriginal organisations
- iii. invest in recognised Aboriginal organisations’ capacity to ensure they are fully resourced, and their workforces fully equipped and supported, to participate in child safety and out-of-home care decision-making processes for Aboriginal children, including involvement in cultural support planning, and to manage any transfer of decision-making authority for Aboriginal children”

The Tasmanian Government accepted the above recommendations 9.15e and 9.15d stating implementation would be completed by July 2029.

## Connection

When placing an Aboriginal 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 June 2022, the Tasmanian OOHC Standards were released by the Tasmanian Government and part of the Tasmanian OOHC Standards is a requirement for children to maintain connection to family, community and culture. Standard 7 also requires OOHC providers to implement culturally safe strategies in their service delivery. This update to the Tasmanian OOHC Standards is positive for the fulfilment of the Connection element of the Child Placement Principle and ensuring accountability for meeting the Tasmanian OOHC Standards will be an ongoing priority.

A Request for Grants Process (RFGP) for the Wellbeing, Care and Recovery Placement was completed in late 2023 without a provider being selected. With the closure of the RFGP process without selecting a provider and the recommendations from the Commission of Inquiry, the DECYP are carefully considering the next steps to best meet the needs of children and young people living with highly complex needs. Young people living with complex needs are supported within Tasmania through individualised salaried care packages. Recommendation 9.15f of the Commission of Inquiry calls for partnership with Aboriginal communities to design and establish Aboriginal-led, therapeutic

programs, stating they must be ‘fully resourced, Aboriginal-led, therapeutic residential programs for Aboriginal children’. The Commission of Inquiry also recommended that an independent community visitor scheme for children in OOHC be established with Aboriginal children given access to Aboriginal community visitors. This was accepted by the Tasmanian Government but will only be implemented by 2029 (Tasmanian Government 2023a).

### Cultural support plans

As Table 2 highlights, 60% of Aboriginal children in OOHC in Tasmania had a current cultural support plan in 2022 with not much improvement since 2017. This is well below the national average of 78% in 2022. The DECYP reported that it implemented a new approach to Case and Care Planning in 2021, which is anticipated to improve data and reporting practices (DECYP 2023a). Improving this data collection is important, as the DECYP notes there may be limitations with how accurate this reporting is as it does not include ‘those with a populated case plan if the plan has not been approved or if the review date was overdue’.

**Table 2: Aboriginal children aged 0–17 in out-of-home care in Tasmania who have a current documented and approved cultural support plan (per cent)**

	2017	2018	2019	2020	2021	2022
<b>Aboriginal children with a current cultural support plan</b>	63.8	57.8	63.9	73.9	62.4	60

Source: AIHW 2024, Table 10.5

Unfortunately, there is no legislative requirement for Aboriginal children to have cultural support plans in Tasmania (Commission of Inquiry 2023, p.152). Recommendation 9.15g from the Commission of Inquiry called for a system that ensures every Aboriginal child has a cultural support plan that is prepared by or with the involvement of an Aboriginal organisation or person, and that these plans are regularly reviewed. TAC has recommended to the DECYP that their information system be updated to include an indicator reflecting whether a current cultural support plan exists. No action has been taken on this recommendation yet, although ‘having a positive sense of culture and identity’ is one of the wellbeing domains covered in care plans for all children and young people in care.

Maintaining connections with siblings is another important right of children removed into OOHC. In 2021–22, in Tasmania, 72% of Aboriginal children who have siblings also in OOHC were placed with at least one of their siblings (DECYP 2023a).

### Reunification

Children on long-term guardianship custody orders (GCOs) and TPPROs are not 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 2024c, 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 TPROs 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, 9.3% of Aboriginal children were reunified from OOHC—including long-term Guardianship orders—in Tasmania (AIHW 2024a T3, AIHW 2024b: Table 10.18). In comparison, 5.8% 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.

**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 CHILD PLACEMENT PRINCIPLE 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.*

A data gap that should also be noted for Tasmania is that the Tasmanian Government does not publish data on children returning to OOHC within 12 months of reunification due to concerns over small numbers and identification of children (DECYP 2023a). In 2021–22, 38 Aboriginal children aged 0–16 years exited OOHC to a permanency arrangement (SCRGSP 2024, Table 16A.41). This was consistent with previous years of 27 children in 2020–21 and 30 children in 2019–20. While permanency planning aims to provide children with stability for Aboriginal children stability is grounded in the permanence of their identity in connection with family/kin, community, culture and Country. Given the very low rates of Aboriginal children in OOHC being placed with their Aboriginal kin or other Aboriginal carers—or being reunified with their families—it is concerning there has been emphasis placed on permanency. There were no Aboriginal children in Tasmania adopted during 2021–22.

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## Appendices

Attachment A – Recommendation 9.15 from the Commission of Inquiry into the Tasmanian Government’s Responses to Child Sexual Abuse in Institutional Settings

### **Recommendation 9.15**

The Tasmanian Government should fully implement all elements of the Aboriginal and Torres Strait Islander Child Placement Principle by:

- a) increasing investment in Aboriginal-led targeted early intervention and prevention services for Aboriginal families, including family support and reunification services, to a rate equivalent to the representation of Aboriginal children in the Tasmanian child safety system
- b) adopting and reporting on measures to reduce institutional racism and supporting decolonising practices in the Department for Education, Children and Young People to reduce the over-representation of Aboriginal children in out of home care
- c) ensuring that the Aboriginal status of all Aboriginal children in contact with Child Safety Services is accurately identified and recorded at the earliest opportunity, and appropriately shared with non-government out of home care providers and carers
- d) introducing legislation to amend the *Children, Young Persons and Their Families Act 1997* to:
  - i. require decision makers to consult with a relevant recognised Aboriginal organisation in relation to any decision likely to have a significant impact on an Aboriginal child—in particular, decisions about whether to remove a child from their family and where a child should live
  - ii. require the involvement of a relevant recognised Aboriginal organisation nominated by an Aboriginal child, or their advocate, in family group conferences, case planning and cultural support planning in respect of the child
  - iii. create a statutory framework and plan co-designed with Aboriginal communities for transferring child safety decision-making authority for Aboriginal children to recognised Aboriginal organisations
- e) partnering with Aboriginal communities to
  - i. promote and support establishing recognised Aboriginal organisations with local knowledge of Aboriginal children, families and communities, to facilitate the participation of Aboriginal children and families in child safety and out of home care decision-making processes
  - ii. develop a model or models for the transfer of child safety decision-making authority to recognised Aboriginal organisations
  - iii. invest in recognised Aboriginal organisations’ capacity to ensure they are fully resourced, and their workforces fully equipped and supported, to participate in child safety and out of home care decision-making processes for Aboriginal children, including involvement in cultural support planning, and to manage any transfer of decision-making authority for Aboriginal children
- f) designing and establishing, in partnership with Aboriginal communities, fully resourced, Aboriginal-led, therapeutic residential programs for Aboriginal children who have been removed from their families and for whom an appropriate placement with an Aboriginal carer cannot be found



- g) implementing systems to ensure every Aboriginal child in out of home care has a meaningful cultural support plan prepared by or with the involvement of a recognised Aboriginal organisation or an Aboriginal person with relevant cultural knowledge, and regularly reviewing cultural support plans to ensure cultural connections for Aboriginal children are being maintained
- h) ensuring non-government out of home care providers comply with the 'placement' and 'connection' elements of the Placement Principle
- i) ensuring the Aboriginal status of carers is identified and accurately recorded
- j) providing mandatory professional development to Child Safety Services staff to ensure all interactions with and responses to Aboriginal children, families and organisations are culturally safe.