

REVIEWING IMPLEMENTATION OF THE ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE NEW SOUTH WALES 2025

Acknowledgement of Country

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
AbSec	AbSec – NSW Child, Family and Community Peak Aboriginal Corporation
ACCO	Aboriginal and Torres Strait Islander community-controlled organisation
ACFC	Aboriginal Child and Family Centre
ACMP	Aboriginal Case Management Policy
AFLDM	Aboriginal Family-Led Decision-Making
AGSM	Aboriginal Guardianship Support Model
AIHW	Australian Institute of Health and Welfare
ALS	Aboriginal Legal Service (NSW/ACT)
the Child Placement Principle	Aboriginal and Torres Strait Islander Child Placement Principle
CSP	Cultural support plan
DCJ	Department of Communities and Justice
FACS	Family and Community Services
FGC	Family Group Conferencing
FSSs	Family Support Service
GCO	guardianship custody orders
IFSSs	Intensive Family Support Services
MAP Group	Ministerial Aboriginal Partnership Group
OCG	Office of the Children's Guardian
OOHC	out-of-home care
PCMP	Permanency Case Management Policy
PSP	Permanency Support Program
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
SDM	Structured Decision-Making
SFSC	Strong Family, Strong Communities
SNAICC	SNAICC – National Voice for our Children
TEI	Targeted Earlier Intervention
TPPRO	third-party parental responsibility order

Executive Summary

This report reviews the progress of the New South Wales (NSW) Government, primarily through the Department of Communities and Justice (DCJ), towards implementing the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle (the Child Placement Principle)¹. Recent changes in law, policy and practice are examined, with a focus on the five interrelated elements of the Child Placement Principle: *Prevention, Partnership, Placement, Participation and Connection*.

The NSW Government's inaction in implementing critical child safety and wellbeing reforms is undermining efforts to reduce the over-representation of Aboriginal and Torres Strait Islander children² in child protection in NSW. Current projections suggest that Target 12 of the National Agreement on Closing the Gap (the National Agreement), which aims to reduce the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care (OOHC) in Australia by 45% by 2031, is unlikely to be achieved, including in NSW (SNAICC, 2024). A substantial and immediate overhaul of child protection systems and practices is essential to reverse this trajectory.

For generations, Aboriginal and Torres Strait Islander families and communities have raised happy, healthy and resilient children who enjoy strong connections to culture. However, the catastrophic and ongoing impacts of colonisation and systemic racism have created an environment of extreme and sustained risk for Aboriginal and Torres Strait Islander children and families, and this is evidenced by the increased likelihood of Aboriginal and Torres Strait Islander people experiencing lower socio-economic outcomes than those of the general population.

Despite only constituting 7.8% of 10-17-year-olds in NSW, Aboriginal and Torres Strait Islander children are significantly over-represented in child protection systems. As of 30 June 2024, 43.5% of children in OOHC and other supported placements were Aboriginal and Torres Strait Islander, making them 9.2 times more likely than their non-Indigenous peers to be in OOHC (SNAICC, 2024). Despite this, only 5.5% of child protection funding was invested in Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) in 2022-23 and only 13.4% of child protection funding was invested in providing early and preventative supports to vulnerable families (SNAICC, 2024).

The NSW Government's commitment to the National Agreement, which aims to reduce the over-representation of Aboriginal children in OOHC by 45% by 2031, is informed by the Child Placement Principle which aims to ensure that Aboriginal and Torres Strait Islander children and families impacted by the child protection system maintain connections to their family, community, culture and Country, promoting their wellbeing and resilience. Further, the government's partnership with Aboriginal and Torres Strait Islander leaders under the Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031 (Safe and Supported) includes a commitment to implementing the Child Placement Principle to the standard of active efforts.

To address the persistent and systemic failures to address the over-representation of Aboriginal and

¹ Please note that we have updated the way our reviews are structured. Previously, reviews were categorized by specific review periods. They are now titled by the year they are released and include all relevant developments up to that point in time. This change provides a clearer, more comprehensive snapshot of progress and updates within each release year.

² Note on language: In NSW, 'Aboriginal' is respectfully used as inclusive terminology for people who identify as Aboriginal, Torres Strait Islander or Aboriginal and Torres Strait Islander. In contrast, SNAICC uses 'Aboriginal and Torres Strait Islander', written in full. Both preferences are reflected throughout this Review.

Torres Strait Islander children in NSW, it is imperative that the NSW Government takes immediate action. The introduction of substantial and targeted reforms, in alignment with the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle, is essential.

Methodology

This review has been 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. This review is 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.

These reviews arise from Safe and Supported: the National Framework for Protecting Australia's Children 2021–2031. They also align with the priority reform areas of the National Agreement on Closing the Gap, including Priority Reform 3 on improving government accountability and Priority Reform 4 on improving Aboriginal and Torres Strait Islander peoples' access to data that affects them and their communities.

This review evaluates the performance of the NSW Government in applying the Aboriginal and Torres Strait Islander Child Placement Principle (the Child Placement Principle) to address the disproportionate representation of Aboriginal and Torres Strait Islander children in OOH. The analysis is structured to:

- highlight data on Aboriginal and Torres Strait Islander child welfare outcomes and over-representation rates specific to NSW,
- contextualise the historical and systemic barriers to implementation of the Child Placement Principle, such as institutionalised racism and resource constraints,
- examine government initiatives, reforms and funding commitments aimed at addressing these issues, and
- identify gaps and propose actionable priorities to enhance adherence with the Child Placement Principle.

Quantitative and qualitative analysis is used to measure and review NSW's progress against the five elements of the Child Placement Principle and across legislation, policy, programs, processes and practice.

This review incorporates qualitative data from NSW service providers and governments to offer deeper insights into the lived experiences, challenges and opportunities related to the implementation of the Child Placement Principle, as well as the systemic and cultural factors influencing its effectiveness. This review also analyses the most recently available quantitative data to provide an up-to-date assessment of key trends and outcomes related to the implementation of the Child Placement Principle. This focused analysis ensures that the findings accurately reflect the current state of over-representation, service delivery and government responses.

Quantitative data is taken primarily from the *Report on Government Services (RoGS) Chapter 16 – Child Protection* (SCRGSP 2025), the Australian Institute of Health and Welfare (AIHW) *Child Protection Australia* report (AIHW 2024a) and the AIHW *Aboriginal and Torres Strait Islander Child Placement Principle Indicators* report (AIHW 2024b).³

³ OOH figures in this review include 'out-of-home care' and 'third-party parental responsibility orders' (AIHW) or, where specified, 'out-of-home care' and 'other supported placements' (RoGS). Data on children of unknown Indigenous status in OOH are excluded where relevant.

Delays in the publication of RoGS and AIHW data, due to comprehensive data collection, lead to inconsistencies in the time periods covered. All data used is the most up-to-date available at the time of publication:

- RoGS Chapter 16 – Child Protection 2025: Released January 2025, covering 2023-24 financial year data.
- AIHW Child Protection Australia 2022-23: Released September 2024, covering 2022-23 financial year data.
- AIHW ATSCPP Indicators Report: Released December 2023, covering 2021-22 financial year data.

Major developments in Cross-Element Child Placement Principle Implementation in NSW

Family is Culture (FIC) Reforms

The year 2024 marked the fifth anniversary of the release of the transformative *Family is Culture (FIC)* Review Report, which examined the over-representation of Aboriginal and Torres Strait Islander children in OOHC and provided critical recommendations to improve outcomes for Aboriginal and Torres Strait Islander children, families and communities (Davis, 2019). The government responded to the report, committing to building a more responsive child protection system in partnership with Aboriginal and Torres Strait Islander communities.

However, as of February 2024, only 12 of the 126 recommendations for systemic reform have been reported by DCJ as completed, and the second phase of related legislative amendments has not been progressed (AbSec, 2024). An updated progress Report has not been provided since February 2024. As noted by AbSec - NSW Child, Family and Community Peak Aboriginal Corporation (AbSec) in their November 2024 FIC Report Card:

'[R]itualism continues to suffocate change and contributes to harmful decision-making processes [and] has become embedded in the implementation of the FIC Review recommendations themselves' (2024).

This stalled reform agenda is contributing to systemic failures in the NSW child protection system. In July 2024, the NSW Ombudsman reported that DCJ cannot demonstrate that it is meeting its core responsibilities towards children in contact with the child protection system in NSW and that 'the NSW child protection system operates in a disconnected, fragmented way and that there is little tracking of the outcomes achieved for children. DCJ does not collect and report reliable, timely and comprehensive performance information at a service, program or system level' (NSW Ombudsman, 2024).

Similarly, in a June 2024 report titled *Oversight of the Child Protection System*, the NSW Auditor General found that 'DCJ has not established governance and accountability mechanisms to ensure compliance with statutory safeguards for Aboriginal and Torres Strait Islander children and their families.' The report concludes that the failure to operationalise safeguards for Aboriginal and Torres Strait Islander children and the absence of accountability mechanisms have led to 'system-wide non-compliance' (NSW Auditor General, 2024). The broader Audit Office report also found that 'DCJ's organisational structure and governance arrangements do not enable system reform.' As NSW continues to position itself for reform in 2025, this raises serious questions about its capacity to deliver on that promise to the community, particularly in light of ongoing structural barriers that undermine its ability to create meaningful change (NSW Auditor General, 2024).

System Review into Out-of-Home Care – Final Report to the NSW Government

Alongside the FIC reforms, the NSW Government published a *System Review into Out-of-Home Care* report in October 2024. This report is intended as a reform-oriented evaluation of the OOHC system. The report concluded that the OOHC system in NSW is 'not fit for purpose and fails to meet the needs of children and young people at an efficient cost.' It found the system is 'characterised by a

profound lack of accountability and ineffective oversight.' (NSW Government, 2024, p. 2).

The report noted that as NSW transitions the case management of Aboriginal children to ACCOs, 'it is crucial to ensure that Aboriginal children, young people, families and carers are included in decision-making processes.' By contrast, the conduct of the review itself did not involve a meaningful partnership with Aboriginal and Torres Strait Islander communities, despite Aboriginal and Torres Strait Islander children comprising 42.9% of those in OOHC. This omission perpetuates a long-standing pattern of state-led inquiries that exclude Aboriginal and Torres Strait Islander people impacted by government decision-making.

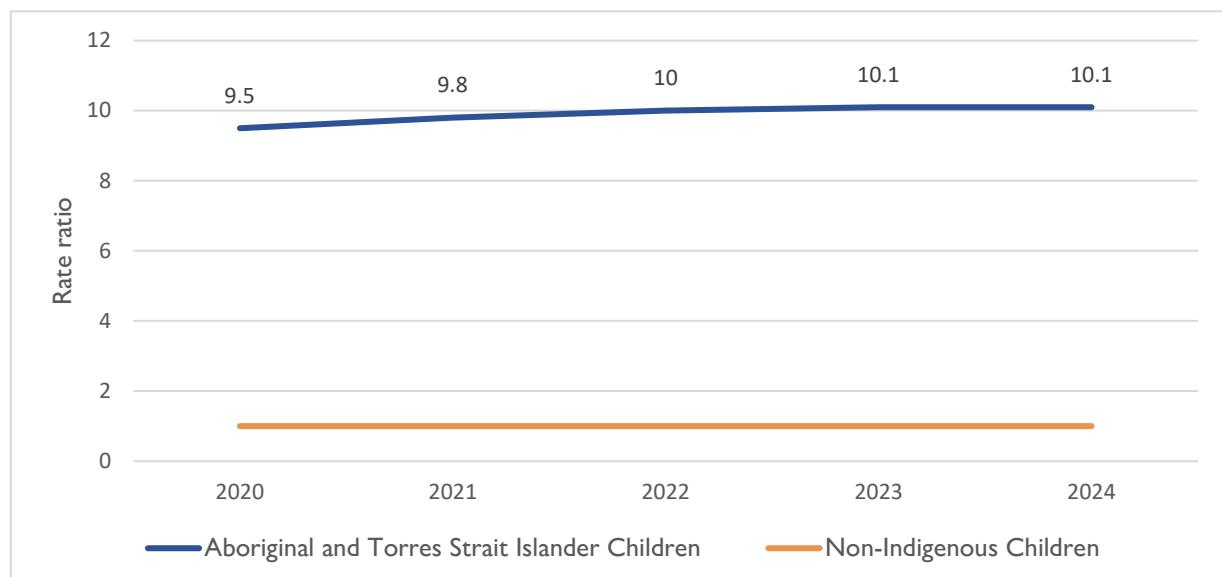
Prevention

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, 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, including health, education, housing and economic development. This review primarily focuses on the child protection-focused activities of the DCJ, while noting that holistic prevention can only be achieved with a whole-of-government approach in partnership with Aboriginal and Torres Strait Islander communities and organisations.

Over-representation in out-of-home care (OOHC)

As defined by SNAICC, OOHC refers to court-ordered care arrangements where a child is removed from their birth parents, including placements with foster or kinship carers, residential care and third-party parental responsibility orders (TPPROs) (SNAICC, 2024). The over-representation of Aboriginal and Torres Strait Islander children in OOHC remains an ongoing urgent crisis in NSW. Despite the NSW Government's public commitment to system reform, there has been little progress to address this. Despite the NSW Government's commitment to addressing the over-representation of Aboriginal and Torres Strait Islander children in OOHC, as of 30 June 2024, Aboriginal and Torres Strait Islander children in NSW were 9.2 times more likely to be in OOHC and other supported placements than non-Indigenous children (SCRGSP 2025, Table 16A.2, 16A.3 and 16A.42). Figure 1 shows the trend in over-representation, comparing the rates of Aboriginal and Torres Strait Islander children and non-Indigenous children in OOHC and other supported placements in NSW over the past five years.

Figure 1 – Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children in OOHC and other supported placements in NSW as of 30 June 2024



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.42⁴

⁴ Rate ratios are calculated by dividing the rate for Aboriginal and Torres Strait Islander children (most often per 1,000 children) by the rate for non-Indigenous children. These ratios provide a lens through which to understand how much more likely Aboriginal and Torres Strait Islander children are to experience specific interventions within the child protection systems, including removal from their families of origin.

While the total number of children in OOHC and other supported places in NSW has decreased (from 19,341 in 2021 to 17,371 in 2024), the over-representation of Aboriginal or Torres Strait Islander children in OOHC has not improved. In 2024, 7,555 children in OOHC were identified as Aboriginal or Torres Strait Islander, representing 43.5% of the total OOHC population (a rise from 41.5% 2021) (SCRGSP 2025, Table 16A.2 and 16A.3).

Analysis Note: This report frequently uses the phrase 'over-representation' to highlight the disparity in outcomes between Aboriginal and Torres Strait Islander children and non-Indigenous children. These are also referred to as rate ratios, which are calculated by dividing the rate for Aboriginal and Torres Strait Islander children (most often per 1,000 children) by the rate for non-Indigenous children. This enables analysis of how much more likely Aboriginal and Torres Strait Islander children are to experience certain outcomes. These rate ratios are different to the Productivity Commission's reporting on Target 12 of Closing the Gap, which uses the rate (per 1000) of children in OOHC.

Table 1 – Children entering and exiting OOHC (rate per 1,000)

	2020-21	2021-22	2022-23	2023-24
Aboriginal and Torres Strait Islander children admitted to OOHC	8.2	6.7	7.0	5.4
Aboriginal and Torres Strait Islander children discharged from OOHC	8.0	7.6	7.2	7.3
Non-Indigenous children admitted to OOHC	0.6	0.7	0.7	0.5
Non-Indigenous children discharged from OOHC	1.0	1.0	0.9	0.9

Source: SNAICC calculation of rates per 1,000, with data drawn from - Report on Government Services 2025, Part F, Section 16 Child Protection Services, tables 16A.4 and 16A.42.

As shown in Table 1 above, the rate of Aboriginal and Torres Strait Islander children per 1,000 entering OOHC each year has also slightly decreased in the three years since 2020-21, consistent with the slight decrease in the overall number of children in OOHC in NSW. The rate of Aboriginal and Torres Strait Islander children per 1,000 discharged from OOHC has also fallen slightly over the same period. Despite this appearing to indicate reform progress (fewer entries into care), the underlying disproportionality remains concerningly high. The data displayed below in Table 2 indicates rising rate ratios in notifications (5.3), investigations (6.8) and substantiations (7.4).

The observed decline in entries into care is often presented as a sign of improvement. However, when considered alongside rising ratios at earlier decision points and the fact that Aboriginal and Torres Strait Islander children are 9.2 times more likely to be subject to Care and Protection Orders, it may rather indicate a system under strain due to capacity constraints rather than improved supports for families or active efforts. This is evidenced by findings from the *System Review into Out-of-Home Care*, the NSW Ombudsman and the Auditor General, all of which point to enduring systemic problems that contribute to an overwhelmed child protection system (Auditor General, 2024; NSW Government, 2024; NSW Ombudsman, 2024).

The Aboriginal and Torres Strait Islander population estimates reported in table 16A.42 of the 2025 RoGS are based on the Australian Bureau of Statistics (ABS) 2021 Census. Previous reviews have included RoGS population estimates that were based on the ABS 2016 Census. Between 2016 and 2021, the Aboriginal and Torres Strait Islander Census counts increased to varying degrees across states and territories. Because these calculations involve different data sets, the over-representation rates will differ slightly from previous years.

Similarly, while rising exit rates may suggest children are leaving the child protection system, these figures should be approached cautiously, as many exits do not necessarily result in positive outcomes for Aboriginal and Torres Strait Islander children (SNAICC, 2024). Out of all Aboriginal and Torres Strait Islander children who exited care in 2022-23, only 16.2% were re-unified, while 33.1% exited due to age, 10.9% exited to a TPPRO, and 39.5% exited to ‘other’ circumstances⁵ (AIHW, 2024, Table 10.13). Reunification and the use of permanent care orders are discussed below under Connection.

Table 2 - Over-representation of Aboriginal and Torres Strait Islander children aged 0–17 years in notifications, investigations and substantiations in the ACT compared to non-Indigenous children – Rate ratios

	2020-21	2021-22	2022-23	2023-24
Notifications	4.7	5.2	5.1	5.3
Investigations	6.4	6.4	6.8	6.8
Substantiations	6.6	6.7	7.4	7.4

Source: SNAICC calculation of rates per 1,000, with data drawn from - Report on Government Services 2025, Part F, Section 16 Child Protection Services, tables 16A.1.

Family Support Services

Aboriginal and Torres Strait Islander children and families continue to face significant barriers to accessing early and culturally safe child and family support. Despite policy commitments, the NSW Government continues to under-invest in prevention and early intervention, particularly in Aboriginal-led services. ACCOs play a crucial role in supporting Aboriginal and Torres Strait Islander children and families, yet they are not adequately resourced to operate, grow and succeed despite government commitments to do so. While there has been an increase in funding for individual projects, the ACCO sector continues to advocate for sustainable, long-term and needs-based funding to enable the provision of effective and culturally safe services and supports to Aboriginal and Torres Strait Islander people.

Family Support Services (FSSs) and Intensive Family Support Services (IFSSs) are vital in supporting families and communities in the safe care of their children. In 2023-24, 13.4% of the NSW Government’s real recurrent expenditure on child protection services was attributed to IFSSs and FSSs, which is similar to investment levels in 2022-23 (13.6%) (SCRGSP 2024, Table 16A.8). As noted in the previous year’s review, this investment is still below the national average of 15.5% for 2023–24 (SCRGSP 2025, Table 16A.8) and reflects a national trend of inadequate investment in prevention and early support, despite policy commitments by NSW and Australian governments (SNAICC 2023). If the NSW Government continues to direct the majority of funding towards OOHC services, it is likely that the number of children in OOHC will continue to rise.

⁵ The other category denotes children who do not fall into the reunification, third-party order, adopted and aged-out categories. This would include children who are discharged from out-of-home care and exit to a placement that is not in scope for out-of-home care (e.g. a non-funded placement where they live independently, with parents on a trial reunification, in detention etc.).

Table 3 – Proportion of Government child protection services expenditure on IFSSs and FSSs in NSW (2020-21 to 2023-24)

	2020-21	2021-22	2022-23	2023-24
Total expenditure (\$'000)	360,040	374,952	408,937	405,350
Proportion of IFSS and FSS	12.4%	13.2%	13.6%	13.4%

Source: Report on Government Services 2025, Part F, Section 16 Child Protection Services, table 16A.8.

To ensure that IFSSs and FSSs are culturally safe and effective for Aboriginal and Torres Strait Islander children and their families, it is essential that the NSW Government fund ACCOs to provide these services, while also investing in ways to increase the cultural safety and accessibility of non-Indigenous services. In NSW, just 9.1% of IFSS and FSS funding was invested in ACCOs in 2022-23 (SNAICC, 2024). Whilst this figure is above the national average of 6% (excluding the NT), substantial increases in ACCO service delivery are necessary to ensure effective implementation of the Prevention element in NSW (SNAICC, 2024). Current funding remains well below the level of need and reflects ongoing underinvestment in prevention for Aboriginal and Torres Strait Islander children and families, particularly when compared to investment in non-Indigenous services.

As shown in Table 4 (below), in 2023-24, 36% of children (3,618 out of 10,044 children) commencing IFSSs in NSW identified as Aboriginal or Torres Strait Islander (SCRGSP 2025, Table 16A.35). This is consistent with 37% of children (2,929 out of 7,898 children) in 2022-23. While this appears to reflect promising and high rates of engagement with support services, it is important to note that these services are only available to families who are subject to a family preservation or a family reunification order. It is therefore unsurprising that there are high rates of Aboriginal and Torres Strait Islander families commencing a service in line with their over-representation in the system. However, this still falls below the proportion of Aboriginal and Torres Strait Islander entries into care (44% in 2023-2024) (SCRGSP, 2025, Table 16A.5).

Table 4 – Proportion of Aboriginal and Torres Strait Islander children commencing IFSS in NSW (2020-21 to 2023-24)

	2020-21	2021-22	2022-23	2023-24
Aboriginal and Torres Strait Islander children commencing IFSSs	3721	3602	2929	3618
Total children commencing IFSSs	11,222	9685	7898	10,044
Proportion	33.2%	37.2%	37%	36%

Source: Report on Government Services 2025, Part F, Section 16 Child Protection Services. Table 16A.8

Investing in ACCOs is vital to delivering essential services to Aboriginal and Torres Strait Islander children and families. In NSW, 5.5% of total child protection expenditure in 2022-23 was allocated directly to ACCOs (SNAICC, 2024). While overall investment in FSSs and IFSSs remained relatively static, the proportion of this funding directed specifically to ACCOs increased. Specifically, funding for FSSs and IFSSs increased from 5.39% in 2020-21 to 9.1% in 2022-23 (SNAICC, 2024). NSW leads in

funding ACCOs for OOHC services across all jurisdictions, with 6.5% of expenditure on care services directed to ACCOs in 2022–23 (SNAICC, 2024).

As noted in the previous review, the DCJ continues to invest in the Targeted Earlier Intervention (TEI) Program, providing a range of supports to children, young people, families and communities through community strengthening, wellbeing and safety activities (FACS n.d.). However, concerns remain that the program is DCJ-led, continuing a pattern of insufficient partnership and under-investment in Aboriginal and Torres Strait Islander families and communities (AbSec, 2024).

In May 2017, 14.05% of the TEI budget was dedicated to services for Aboriginal and Torres Strait Islander communities (AbSec, 2024). However, only 7.2% of this funding was dedicated to ACCOs compared to NGOs (AbSec, 2024). The NSW Government's long-standing commitment to a 30% funding allocation to ACCOs is a commendable goal that recognises the role Aboriginal and Torres Strait Islander-led organisations play in improving outcomes for children and families. However, despite this commitment being reaffirmed by the Minister for the current financial year, progress has been limited.

In 2021–22, 34 out of 472 TEI service providers were ACCOs, with 15% of children accessing the service identifying as Aboriginal and Torres Strait Islander (Watthanawinitchai et al. 2023). Although the number of ACCOs delivering TEI services increased by 20% from 2020-21, the number of Aboriginal and Torres Strait Islander children accessing these services decreased by 3% (Watthanawinitchai et al. 2023). This highlights an incongruity between growing ACCO service presence and actual reach and uptake, suggesting the current investment is insufficient not only in scale but also in ensuring equitable access to these services.

Data from the Data Exchange shows that 7,248 clients who identified as Aboriginal and Torres Strait Islander received family support services from Targeted Earlier Intervention and Family Connect and Support in 2022-23, including 1,384 Aboriginal and Torres Strait Islander children aged 0-5 (DCJ, 2024). An evaluation of TEI programs is underway to examine whether children in families participating in TEI services are less likely to be reported at risk of significant harm and/or enter OOHC.

Family Connect and Support Program

The Family Connect and Support (FCS) program is designed to assist vulnerable children, young people and families in connecting with local support services, including specific services for Aboriginal and Torres Strait Islander children, young people and families.

In July 2023, the Research Centre for Children and Families at the University of Sydney, in partnership with Curiyo, published a comprehensive evaluation of the FCS program (Wright et. al. 2024). The evaluation considered whether families exited the program with their identified needs met, as recorded by the service. Families in this 'needs met' group were significantly less likely to later have contact with the statutory child protection system, compared to those whose needs were not met. However, the evaluation acknowledges that not all families avoided re-reporting, and the analysis did not include out-of-home care outcomes due to data limitations (Wright et. al. 2024).

The evaluation found that FCS is perceived as filling a critical gap in early intervention through offering a flexible, voluntary and non-statutory model tailored to the needs of Aboriginal and Torres Strait

Islander families (Wright et. al. 2024). An additional positive was identified through FCS providers having established strong partnerships and their staff possessing significant cultural knowledge and expertise (Wright et. al. 2024). The report also found that when individualising support to the family, these families showed a reduced risk of future child protection contact and the reduction in substantiations was greatest for Aboriginal and Torres Strait Islander children (-27.4%) compared to non-Indigenous children (-19.1%) (Wright et. al. 2024).

However, the report also identifies several challenges and barriers faced by FCS providers. These include the need for greater investment in early intervention, noting that there is a 30% cap on DCJ referrals to FCS to 'ensure service delivery remains primarily focused on the prevention and early intervention' (Wright et. al. 2024). There are also service gaps in areas such as housing, mental health services, domestic and family violence services, intensive family case management, paediatric and allied health for children and clinical assessments for neurodevelopmental conditions.

Furthermore, the report suggests that referral pathways with the FCS program could be strengthened (Wright et. al. 2024)

Active Efforts Policy

An Active Efforts Policy and interim practice resource were made available to caseworkers in November 2023, when new active efforts provisions in the *Children and Young Persons (Care and Protection) Act 1998* (NSW) came into effect. Key deliverables include resources to support improved family-led decision-making processes and enhanced casework processes to ensure active efforts occur from the earliest point of working with children and families. DCJ is working with the Aboriginal Legal Service (NSW/ACT) (ALS), AbSec, the University of Technology Sydney and internal stakeholders to co-design Active Efforts Practice Rules and Guidance. Although movement on this so far has been minimal.

Throughout 2024, AbSec and the ALS have collaborated closely with Aboriginal and Torres Strait Islander staff from the Transforming Aboriginal Outcomes unit of DCJ and other departmental practitioners to develop rules and practice guidance for caseworkers regarding 'active efforts' to uphold the Aboriginal and Torres Strait Islander Child Placement Principle. In the absence of published decisions by the NSW Children's Court further defining 'active efforts', the work undertaken by AbSec, the ALS and the University of Technology Sydney's Jumbunna Institute (UTS Jumbunna) has focused on reinforcing 'active efforts' principles in practice. However, there is limited evidence of systemic change to date, and there are concerns that DCJ's implementation has stalled. There remains a significant need for further reform and the integration of cultural expertise in the court process to fully realise the potential of 'active efforts' principles.

Social Determinant Risks of Increased Contact with The Department of Communities and Justice (DCJ)

Social determinants of health, including housing insecurity, poverty, unemployment and limited access to healthcare and education, can heighten the likelihood of any family coming into contact with the DCJ. However, these factors do not inherently cause child abuse or neglect. Further risk lies in how government systems respond to social disadvantage. When tailored, culturally safe and accessible early intervention supports are absent, families experiencing hardship are more likely to be drawn into statutory systems rather than supported to remain connected (SNAICC, 2024). Social factors shape

how families experience statutory child protection processes. For Aboriginal and Torres Strait Islander families, these experiences are further compounded by the enduring impacts of colonisation, systemic racism and intergenerational trauma. Limited access to adequate housing, education, employment and essential services has a cumulative impact on health and wellbeing, which can heighten visibility to statutory authorities. These conditions are not only structural but are also maintained by policy inaction and the failure to implement culturally safe support systems (Collings et al., 2024).

Aboriginal and Torres Strait Islander families have been successfully rearing children for over 60,000 years, with strong cultural practices and community structures that are foundational to the wellbeing and safety of Aboriginal and Torres Strait Islander children. There is no evidence to support the notion that Aboriginal and Torres Strait Islander parents are inherently more likely to be abusive or neglectful. However, there is a relationship between social hardship and structural disadvantage, which significantly increases the risk of child maltreatment and child protection intervention (SNAICC, 2023). These systemic inequalities are compounded by policy inaction and the lack of culturally safe support systems in all stages of child protection ‘intervention’ (Collings et al., 2024).

This is evident in child removal into OOHC disproportionately impacting Aboriginal and Torres Strait Islander families across every stage of system intervention (AIHW, 2024). The interplay of social determinant factors and DCJ processes is further influenced by systemic racism and a lack of cultural awareness, both within government departments and throughout the non-Indigenous NSW community. In NSW, there continues to be a range of social, economic and health challenges contributing to Aboriginal and Torres Strait Islander children entering OOHC. The NSW Government has released several strategies designed to address these challenges. Relevant initiatives are outlined in Table 5 below, along with a short description of relevant public commentary or evaluation, if available.

Table 5 – Strategies to Address Social Determinants of Aboriginal and Torres Strait Islander Health & Wellbeing in NSW

Social Strategies	Updates on legislation, policy and practice
Access to early childhood education and care	<p>The NSW Government has committed to expanding the Ninganah No More language program and the Aboriginal Families as Teachers program (DOE 2021). This strategy was developed in consultation with the NSW Department of Education's Early Childhood Education and Care Aboriginal and Torres Strait Islander Committee (DOE 2021).</p> <p>A 2020 evaluation of the Ninganah No More language program by the Cultural and Indigenous Research Centre Australia found that the program successfully increases the level of Aboriginal languages taught in early childhood education services across NSW, providing opportunities for Aboriginal culture and identity to be nurtured and developed in the earliest stage of formal education (CIRCA, 2020).</p> <p>Launched in February 2024, the Boori Milumba program is an Aboriginal and Torres Strait Islander-led early childhood education and care initiative on Wadi Wadi Wandandian Country in Nowra. This program is tailored to meet the individual and cultural needs of Aboriginal and Torres Strait Islander children aged 0-3 years and is run out of the Cullunghutti Aboriginal Child and Family Centre. It provides five hours of education and care for five days a week, at no cost to families. The aim of this program is to serve as a model to scale and adapt across Aboriginal and Torres Strait Islander communities in Australia. This consultation with and early availability of ACCO-run family and culture preservation and reunification programs promotes the Prevention principle.</p> <p>Arrernte and Luritja woman Catherine Liddle, CEO of SNAICC, spoke about the program's potential to deliver positive outcomes for Aboriginal and Torres Strait Islander children and early childhood workers alike. Boori Milumba's focus on addressing the specific needs of Aboriginal and Torres Strait Islander people from disadvantaged backgrounds resonates with SNAICC's commitment to tailored supports and wraparound services that embed culture into practices (SNAICC, 2024)</p>
Early contact with youth justice	<p>The Joint Protocol to Reduce the Contact of Young People in Residential OOHC with the Criminal Justice System aims to reduce the criminalisation of young people living in residential OOHC and Intensive Therapeutic Care (ITC) settings. The protocol involves collaboration between the DCJ, NSW Police Force, the Association of Children's Welfare Agencies and AbSec. It includes guidelines for responding to incidents, training for service providers and resources to support local implementation.</p> <p>As noted by National Legal Aid in their submission to the Inquiry into Australia's Youth Justice and Incarceration System, while significant progress has been made in the rollout and implementation of the Joint Protocol, its effectiveness and influence remain unclear in various parts of NSW due to limited training and implementation. Despite reminders to OOHC providers and NSW Police, Legal Aid NSW staff</p>

	<p>report no change in reporting or charging practices in some areas (NLA, 2024).</p> <p>The Family is Culture Review also criticised the implementation of the Joint Protocol, highlighting inconsistency in application and limited accountability mechanisms to community.</p> <p>The NSW Government passed the <i>Bail and Crimes Amendment Bill</i> to provide for a temporary limitation on granting bail for certain young people in relation to certain serious offences, temporarily limiting bail for certain young persons in relation to serious offences.</p> <p>This amendment faced heavy criticism from legal and criminal justice experts nationwide, including the ALS.</p>
<p>Family Domestic and Sexual Violence (FDSV)</p>	<p>The NSW <i>Domestic and Family Violence Plan 2022–2027</i> and the <i>NSW Sexual Violence Plan 2022–2027</i> were developed to prevent and respond to FDSV. These plans do not specifically address the needs of the Aboriginal and Torres Strait Islander community and sector (DCJ 2022).</p> <p>The DCJ has committed to developing a dedicated plan to address FDSV experienced by Aboriginal and Torres Strait Islander people, expected to be released in early 2025 (NSW Government 2023a).</p> <p>In response to the National Agreement's Target 13: By 2031, the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children is reduced by at least 50 per cent, as progress towards zero, the NSW Government is piloting holistic, culturally responsive programs to support families experiencing FDSV.</p> <p>In 2022, the DCJ invested an additional \$98.7 million into the Aboriginal Child and Family Centre (ACFC) program (NSW Government 2024a). This funding will establish six new ACFCs and expand the services of the existing nine centres. The centres offer various services, including early childhood education, family support, maternal and child health, playgroups and adult education opportunities (FACS n.d.).</p> <p>A 2021 non-Indigenous evaluation found that ACFCs concluded that the program provides high-quality and cost-effective early childhood education to Aboriginal and Torres Strait Islander children in a trusted, culturally safe environment and increase access and referrals to additional services (Inside Policy, 2021).</p> <p>While these outcomes are positive, it is important to note that the evaluation was conducted by a non-Indigenous organisation. The evaluation also recommended that the program logic and evaluation framework be redesigned through a co-design process with ACFCs (Inside Policy, 2021).</p>

Housing	<p>The Strong Family, Strong Communities (SFSC) strategy is the Aboriginal Housing Office's 10-year plan to improve the wellbeing of NSW Aboriginal and Torres Strait Islander families and communities through housing (AHO 2022).</p> <p>This strategy focuses on housing solutions, achieving better client outcomes, growing the Aboriginal Community Housing Providers sector and improving data collection, evaluation and analysis. The SFSC Dashboard highlights achievements from 2019 to 30 June 2022, with 27 of 28 targets met.</p> <p>The SFSC Phase Two Implementation Plan, released in 2022, outlines key outcomes and targets to be implemented by 30 June 2026.</p>
Maternal and child health	<p>The expansion of Pregnancy Family Conferencing (PFC), under the 'Brighter Beginnings' initiative in partnership with the NSW Ministry of Health, aims to ensure early engagement and interagency care planning for expectant parents. During the 2024 Budget Estimates hearings, DCJ announced the statewide expansion of Pregnancy Family Conferencing, highlighting its 'promising results' (NSW Ombudsman, 2024). From its infancy, the PFC program has been a DCJ-led approach with limited evidence of community co-design or leadership.</p>

Partnership

To improve the wellbeing of Aboriginal and Torres Strait Islander children and families, governments and key stakeholders must establish and maintain genuine partnerships with Aboriginal and Torres Strait Islander communities. The partnership element of the Child Placement Principle is not only about collaboration or consultation—it is a mechanism for advancing self-determination in child protection. Meaningful involvement of Aboriginal and Torres Strait Islander people in all aspects of design, delivery and decision-making ensures that policies and practices reflect cultural knowledge, community priorities and the rights of children to grow up connected to family, culture and Country.

Without prioritising the full implementation of this principle, child protection systems risk perpetuating approaches that exclude Aboriginal and Torres Strait Islander voices and fail to uphold their inherent rights to lead decisions affecting their children and families. This has been reinforced through the NSW Government's commissioned System Review into Out-of-Home Care, which failed to meaningfully engage Aboriginal and Torres Strait Islander peoples and communities despite their disproportionate representation in the system. Similarly, the Family is Culture (FIC) five-year report outlines persistent shortcomings in partnership and shared decision-making, evidencing a continued pattern of tokenistic engagement rather than genuine, community-led reform.

The ACCO sector has initiated new working relationships with the DCJ and has maintained high expectations for genuine partnerships based on shared decision-making. To fulfil commitments under the NSW Partnership Agreement and Closing the Gap Priority Reforms, the NSW Government anticipates a greater level of involvement from Aboriginal and Torres Strait Islander communities, ACCOs and peak bodies in system reform (CSD, 2024).

Investment in ACCOs

Increasing investment in the ACCO sector is a key component of effective implementation of the Partnership element. Strengthening financial support ensures ACCOs have the capacity to deliver culturally responsive services that meet the unique needs of Aboriginal and Torres Strait Islander communities. Without adequate funding, ACCOs may struggle to build sustainable programs, limiting their ability to drive long-term positive outcomes.

To effectively support ACCOs, a meaningful proportion of funding must be allocated, ensuring they can deliver essential services for Aboriginal and Torres Strait Islander children and families. This proportion should reflect the service demands of Aboriginal and Torres Strait Islander communities. Despite all jurisdictions committing to reporting on the proportion of their expenditure on ACCOs through the previous National Framework for Protecting Australia's Children (2009–20), current publicly available data products do not capture this measure. However, most states and territories provide this data to inform the SNAICC Family Matters reports (SNAICC, 2024).

During 2022-23 in NSW, Aboriginal and Torres Strait Islander children made up 43% of children in OOHCA and 33% of substantiated claims of abuse or neglect (SNAICC, 2024). Despite this, only 5.5% of child protection funding was invested in ACCOs, slightly below the national average of 6%, as shown in Table 6 (SNAICC, 2024).

Table 6 – Real recurrent child protection expenditure on Aboriginal and Torres Strait Islander community-controlled services, 2022–23 (NSW).

Type of service	Total expenditure (\$'000)	Direct funding to ACCOs (\$'000)	% of total expenditure to ACCOs
FSSs and IFSSs	405,325	36,709	9.1
Protective intervention services	799,945	10,698	1.3
Care services	1,891,584	123,153	6.5
Total	3,096,854	170,560	5.5

Source: Data provided by state and territory governments to SNAICC. Proportions of children subject to substantiations drawn from Report on Government Services table 16A.1, and proportions in OOHC drawn from Child Protection Australia 2022–23 table T3.

Legislative reform to uphold the Child Placement Principle

In 2022, the NSW Government enacted the *Children and Young Persons (Care and Protection) Amendment (Family is Culture) Act 2022 (NSW)* (the Family is Culture Act). The Family is Culture Act explicitly enshrines the five elements of the Child Placement Principle through the introduction of Section 12A (NSW Government 2024a). This legislative reform responds to recommendations from the FIC Review Report, which provides a comprehensive review of the experiences of Aboriginal and Torres Strait Islander children, young people and families in contact with the child protection system in New South Wales (Davis 2019).

The *Family is Culture Act* introduces active efforts provisions to keep Aboriginal and Torres Strait Islander children with their families and communities, emphasising self-determination and cultural integrity. The amendments also expand the NSW Ombudsman's jurisdiction, establish a Parliamentary Committee for oversight and remove the presumption that a child subject to proceedings requires care and protection where evidence has been admitted of a prior removal of a child from the parent. Additionally, the Family is Culture Act seeks to improve transparency through public reporting and support restoration efforts to reunite children with their families. These reforms are designed to reduce the number of Aboriginal and Torres Strait Islander children in OOHC and enhance their overall wellbeing.

There has been no progress on the additional legislative changes recommended by the FIC Review, following the 'first phase' of legislative reforms in late 2022 (DCJ, 2022b). The additional and much-needed reforms include the establishment of an independent Child Protection Commission, a requirement for judicial officers to consider the known risks of harm to Aboriginal and Torres Strait Islander children of being removed, and the strengthening of rights to self-determination. This significant delay in these urgently needed reforms is contrary to the previous NSW Government's commitment in 2022 to progress the second 'phase' of reforms following further community consultation in 2023 (DCJ, 2022b).

While the legislative amendments are a positive step towards better implementing the Child Placement Principle, the ACCO sector has expressed disappointment in the lack of partnership and limited consultation with Aboriginal and Torres Strait Islander communities in the development of the legislation (AbSec, 2024). During their 2024 *Family Is Culture Progress Report*, the NSW Government 'marked a number of first-phase legislative reforms as 'completed' or 'ready for closure/finalisation' without consultation with or sign-off from the peaks' (AbSec, 2024). Despite the legislation passing in

November 2022, the commencement of the active efforts provisions was delayed by 12 months due to the need for training materials and guidelines for caseworkers and the sector (AbSec, 2024). The active efforts provisions of the *Family Is Culture Amendment Bill* have now begun as of November 2023. However, AbSec have expressed concerns about extensive and unjustified delays, as well as tokenistic consultation on the draft policy (AbSec, 2024).

The legislative reform could be considered a symbolic or partial form towards partnership, in that it adopts Aboriginal and Torres Strait Islander-led recommendations into law and aligns with community-identified principles. However, without co-design, shared implementation and transparent accountability, it reflects a government-led process that falls short of the genuine partnership envisaged under the Child Placement Principle.

Review and Improvement of Decision-Making Tools in Child Protection

In 2023, the DCJ commenced a review of the Better Decisions for Children project (which had run from 2021 to 2023), which aimed to improve decision-making in the NSW child protection and OOHC system, including the use of Structured Decision Making (SDM). The aim of this review is to enhance decision-making tools, processes and practices across the NSW child protection and OOHC systems.

The Better Decisions for Children project aims to:

- assess the current safety of children and predict future risks more reliably,
- help more children remain safely at home by understanding their family's needs and strengths,
- ensure that DCJ's decisions about children are culturally appropriate,
- enhance participation and collaboration with children, families, carers, mandatory reporters and the community in child protection processes, and
- improve the consistency and quality of assessments and decision-making for children in care, particularly when safety concerns are raised.

The scope of the Better Decisions for Children project includes the SDM Risk Assessment and Re-Assessment Tools (AbSec, 2024). Aboriginal and Torres Strait Islander families, communities and peak organisations have long advocated for the abolition of the SDM tools since their introduction in 2010 (ALS, 2024). This advocacy, driven by public campaigns highlighting lived experiences and research evidencing racially biased SDM decisions to remove Aboriginal and Torres Strait Islander children (ALS, 2024), culminated in DCJ's decision to abolish these tools (AbSec, 2024). The SDM tools were deactivated in September 2024, with DCJ using an interim approach until the new system is implemented. It is important to note that this interim approach was not co-designed with ALS and AbSec (AbSec, 2024).

Unfortunately, this review constituted a government-led process that did not fully respond to Aboriginal and Torres Strait Islander community voices:

'AbSec and the ALS, alongside our advocacy partners UTS Jumbunna and the Justice and Equity Centre, attempted to review the limited documentation which was provided and ultimately refused to endorse the implementation of the Better Decisions for Children project as it was not an Aboriginal community-led process and did not fully abolish the use of Structured Decision Making tools' (AbSec, 2024).

Joint work on the Better Decisions for Children project formally ceased in late 2024 (AbSec, 2024). As of

the end of 2024, the ALS and AbSec were negotiating a formal partnership with DCJ to design, implement and evaluate a new assessment framework for working with Aboriginal and Torres Strait Islander families (AbSec, 2024). AbSec remains ‘cautiously optimistic’ that the future new approach to assessment will improve decision-making and reduce the over-representation of Aboriginal and Torres Strait Islander children in OOHC, including by minimising unnecessary removals (AbSec, 2024).

There has been no evaluation or direct evidence regarding the impact of this consultation process on the program at the time of writing. Since the review began in May 2024, references to the Better Decisions For Children Project have been removed from the DCJ website.

Finally, DCJ has committed to ongoing collaboration with sector peak bodies and NGOs, including ACCOs that deliver services under the Permanency Support Program (PSP) (*discussed in more detail below*). In August 2023, DCJ established a new PSP joint governance structure, which includes senior executive representatives from AbSec, the Association of Children's Welfare Agencies (ACWA), ACCOs and NGOs. This governance structure aims to collaboratively address and resolve key areas requiring improvement within the service system for the PSP. The PSP is discussed further below under *Placement*.

OOHC Transition Project

In NSW, AbSec and ALS have long advocated for self-determination in child protection, aligned with the Partnership element, through the transfer of Aboriginal and Torres Strait Islander case management to ACCOs. The OOHC Transition Project aims to achieve this by transitioning all carers of Aboriginal and Torres Strait Islander children to ACCOs (NSW Government, 2023). However, AbSec has remarked that ‘transfer of funding and transition of children have been approached with a crippling lack of urgency’ (2024). The initial timeline for the project was 2012-2022, and this timeline has now been extended indefinitely (NSW Government, 2023). As of December 2023, only 32 children had been transferred due to insufficient resourcing and investment in ACCO capacity building (SNAICC 2023). Further, between 1 April 2023 and 29 February 2024, just 13 Aboriginal and Torres Strait Islander children were transferred from non-Indigenous community sector organisations to ACCOs, with no public reporting on progress beyond this period (AbSec, 2024).

Establishing Accountability

Alarmingly, the position of NSW Advocate for Aboriginal Children and Young People remains vacant at the time of writing and has been unoccupied since January 2024. Inaction in filling this oversight position represents a significant shortfall in achieving the system-level accountability and oversight envisioned by the FIC report and contradicts the commitments outlined in the *Safe and Supported: Aboriginal and Torres Strait Islander First Action Plan 2023-2026*. Despite clear and consistent calls from the sector and the Prime Minister's February 2024 commitment to appoint a National Aboriginal and Torres Strait Islander Children's Commissioner, the NSW Government has missed several opportunities to establish a Commissioner role.

AbSec has developed a formal proposal for a NSW Commissioner for Aboriginal Children and Young People. This model, created in collaboration with Aboriginal and Torres Strait Islander Commissioners from various jurisdictions and informed by community feedback from the AbSec November 2023 sector forum, outlines the framework for this crucial role. The immediate establishment and appointment of an Aboriginal and Torres Strait Islander, independent NSW Commissioner for

Aboriginal and Torres Strait Islander Children and Young People is necessary to protect and promote the rights of Aboriginal and Torres Strait Islander children and young people in NSW. This pivotal role would ensure a dedicated and culturally informed approach to addressing the unique challenges faced by Aboriginal and Torres Strait Islander children, fostering their wellbeing and upholding their rights.

Ministerial Aboriginal Partnership Group

The establishment of the Ministerial Aboriginal Partnership Group (MAP Group) in February 2024, including the Minister for Families and Communities and co-chaired by the CEO of AbSec, represents an important opportunity to strengthen partnership between government and Community to reform the NSW child protection system (NSW Government 2024a). The group comprises members of the Government, Aboriginal and Torres Strait Islander stakeholders, leaders and community representatives, including experienced Aboriginal and Torres Strait Islander child protection leaders, advocates and practitioners. While its creation signals an intent toward a partnership approach, the MAP's operations currently lack transparency - with limited public reporting on its activities, advice provided to government, or how this advice is acted upon. Without clear mechanisms for public accountability, it is difficult to assess whether this opportunity is translating into meaningful power-sharing and systemic change.

The MAP Group was established following a landmark forum held in August 2023, where more than 100 Aboriginal and Torres Strait Islander community representatives proposed measures to address the over-representation of Aboriginal and Torres Strait Islander children entering OOHIC.

The NSW Government has committed to several initiatives, including:

- establishing the new MAP Group in collaboration with the Minister for Families and Communities, Aboriginal and Torres Strait Islander stakeholders and communities;
 - the MAP Group will oversee system reforms and provide Aboriginal and Torres Strait Islander communities greater control over the future of their own children;
- setting up a restoration taskforce to support the safe return of Aboriginal and Torres Strait Islander children to their families;
 - this taskforce will expand restoration-focused work in partnership with ACCOs across NSW;
- formalising the leadership role of Aboriginal and Torres Strait Islander people and communities in decisions concerning Aboriginal and Torres Strait Islander children and child protection.

On 12 February 2024, members of the MAP Group convened for the first time to discuss the issue of over-representation.

Aboriginal Child and Family Advocacy Support

From 2020 to 2024, the NSW Government allocated \$9.8 million to ALS to pilot an Aboriginal Child and Family Advocacy Service. This initiative aimed to provide both legal and non-legal advocacy to families at risk of having their children removed, through holistic early assistance. The service was trialled in select regional locations in Western NSW. Although this initiative was documented in the *Family Is Culture Progress Report 2024* (NSW Government, 2024a), no evaluation of the initiative has been found, nor is there information on whether the funding will continue beyond 2024.

Placement

Placement in accordance with the hierarchy of placement options⁶ is fundamental to maintaining the strongest possible connection between Aboriginal and Torres Strait Islander children and their family, community, culture and Country. The placement hierarchy is not just a guideline—it is a safeguard against disconnection and a commitment to ensuring children grow up with cultural continuity.

Proper application of the placement hierarchy requires child protection decision-makers to exhaust all possible options at each level before considering a lower-order placement. No placement should occur without demonstrated consultation with the child's family and community representatives, ensuring that all higher-order placement options have been fully explored. Community representatives must be empowered to provide independent advice to the courts on the most appropriate care arrangements.

To ensure the integrity of the placement hierarchy, robust policies and procedures must be in place, alongside sufficient staff capacity to implement them effectively. A thorough process of family mapping—including searching for and identifying family carers—should be embedded in child protection practice to inform initial placements, placement changes and regular placement reviews. Additionally, procedures must include clear requirements to identify a child's Aboriginal and Torres Strait Islander status at the earliest possible opportunity, ensuring that culturally connected placements are prioritised.

As evident in Table 7 (below), the rate of placement of Aboriginal and Torres Strait Islander children with relatives/kin has remained relatively consistent between 2021 and 2024. As of 30 June 2024, 34% of Aboriginal and Torres Strait Islander children in NSW were placed with Aboriginal and Torres Strait Islander relatives/kin. This is the third highest rate across Australian jurisdictions, behind the ACT and Victoria (SCRGSP 2025, Table 16A.23). The national average for placing Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander relatives/kin was 32.2% in 2023 (SCRGSP 202, Table 16A.23). Despite having the third highest rate of placement with Aboriginal and Torres Strait Islander relatives or kin, this rate is still unacceptably low given about two thirds of Aboriginal and Torres Strait Islander children are deprived of a placement which supports their right to connection to culture, community and family.

⁶ For further detail on the placement hierarchy see SNAICC (2019) *The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation*

Table 7 – Aboriginal and Torres Strait Islander children aged 0-17, in OOHC, by caregiver type in NSW, as of 30 June 2021 to 2024 (%).

	2021	2022	2023	2024
Placed with relatives/kin or other Aboriginal and Torres Strait Islander carer				
Aboriginal and Torres Strait Islander relative/kin	33.9	33.8	33.2	34
Non-Indigenous relative/kin	22.9	22.6	22.5	23.4
Total placed with relatives/kin	56.8	56.4	55.7	57.4
Other Aboriginal and Torres Strait Islander carer	13.7	13.6	13.7	13.1
Total	70.5	70	69.4	70.5
In another care arrangement				
Other non-Indigenous carer	23	23.3	23.0	22.3
Residential care or family group home	3.8	4.7	5.4	6
Independent living/living arrangements unknown	2.7	2	2.3	1.1
Total	29.5	30	30.6	29.5

Source: Report on Government Services 2025, Part F, Section 16 Child Protection Services, table 16A.23.

Despite policy commitments, only approximately one-third of Aboriginal and Torres Strait Islander children are placed with Aboriginal and Torres Strait Islander kin, and the data tells us that the rate of Aboriginal and Torres Strait Islander children living with non-Indigenous relatives or kin has increased by 0.5% from 22.9% in 2021 to 23.4% in 2024 (SCRGSP 2025, Table 16A.23). Additionally, the proportion of children in residential care increased slightly from 4.7% in 2022 to 5.4% in 2023 and then to 6% in 2024 (SCRGSP 2025, Table 16A.23). The rise in the number of children in residential care raises concerns about the potential negative impacts of this environment on their development and family relationships, highlighting the need for more family and community-based support systems (AIHW, 2022).

Permanency Support Program (PSP)

In 2017-18, the DCJ introduced the Permanency Support Program (PSP) with the objective of reducing entries into care, shortening the duration of care, improving the care experience and decreasing the over-representation of Aboriginal and Torres Strait Islander children in care. However, a NSW Ombudsman assessment of the program indicates that none of these goals have been achieved. According to NSW Ombudsman Paul Miller, a concerning trend is that fewer children are exiting care to family, kin or guardians at the commencement of the PSP program (NSW Ombudsman, 2024). This is despite one of the program's central goals being to have more children exiting care and finding permanent homes.

The report also highlights an alarming increase in the number of children who return to OOHC after leaving. Since the PSP began in 2017-18, the number of children re-entering care has increased by 32%, with a disproportionate 62% increase among Aboriginal and Torres Strait Islander children, starkly highlighting the ongoing disproportionate and inequitable impact of government reforms on Aboriginal and Torres Strait Islander communities (NSW Ombudsman, 2024).

The report, which includes an analysis of previously unpublished data, provides new insights into critical aspects of the child protection system, which deserve further scrutiny. Key findings include:

- a significant number of children are re-reported at risk of significant harm after exiting OOHC on a long-term guardianship order (22% in 2022-2023),
- a substantial number of children are re-entering care, with an over-representation of Aboriginal and Torres Strait Islander children,
- the NSW Ombudsman held overarching concerns about the education, health, stability and safety outcomes for children in OOHC, and
- DCJ was failing to transition children from traditional residential care to a therapeutic model of care to address their trauma (NSW Ombudsman, 2024).

Put simply, these findings underpin the NSW Ombudsman's conclusion that the NSW child protection system is failing to deliver on its mandate to safeguard the safety, welfare and wellbeing of children in its care, particularly Aboriginal and Torres Strait Islander children.

Additionally, the increasing proportion of children on long-term guardianship orders in NSW suggests the DCJ is not doing enough to reunify Aboriginal and Torres Strait Islander children with their families. The proportion of Aboriginal and Torres Strait Islander children on guardianship orders rose from 33% in 2017-18 to 36% in 2022-23 (NSW Ombudsman, 2024).

In 2022-23, nearly one-third of all entries to OOHC were not first-time entries (NSW Ombudsman, 2024). The data also reveals an increasing disparity between the re-entry patterns for Aboriginal and Torres Strait Islander and non-Indigenous children:

- the number of Aboriginal and Torres Strait Islander children entering OOHC between 2017-2023, not for the first time, increased by 62%, nearly seven times higher than the 9% increase for non-Indigenous children, and
- Aboriginal and Torres Strait Islander children constitute an increasing proportion of children entering OOHC not for the first time, rising from 43% to 53% (NSW Ombudsman, 2024).

An April 2023 evaluation report found that PSP did not substantially improve children's safety, permanency, stability, or wellbeing (Rose et al. 2023). Echoing the earlier FIC Review, the evaluation also noted that new potential kin placements were often not considered for Aboriginal and Torres Strait Islander children in non-kin placements for extended periods (Rose et al. 2023). The broader ACCO sector has expressed concerns about the program's negative impact on the connection of Aboriginal and Torres Strait Islander children in OOHC. The evaluation calls for a substantial overhaul of the PSP and discontinuation of specific components (Rose et al. 2023). Notably, the NSW Government has indicated an appetite for reform, presenting a critical opportunity to transform the OOHC system in genuine partnership with Aboriginal and Torres Strait Islander communities.

Although some ACCOs deliver the PSP in NSW, the program was not developed or implemented in partnership with Aboriginal and Torres Strait Islander families and communities or ACCOs, continuing a history of unmet commitments under the National Agreement for formal partnerships and shared decision-making with Aboriginal and Torres Strait Islander people. Other concerns include delayed implementation processes, poor communication and access issues with client case management systems and payments (Rose et al. 2023).

The increasing number of Aboriginal and Torres Strait Islander children returning to OOHC points to the need to do more to support children to stay with their families, rather than focusing attention on permanency planning once a child has entered care. It is therefore pleasing to note that by June 2024,

the NSW Government has committed to diverting all funding for PSP and Family Preservation relating to Aboriginal and Torres Strait Islander children (up to \$11 million p.a. or 140 packages) from non-Indigenous organisations to the ACCO sector (NSW Government, 2024a).

Revised Guidelines and Practice Mandates in the DCJ

In November 2022, the DCJ updated its Assessment Guide for the full authorisation of relative and kinship carers, in alignment with the Family Is Culture Recommendation 86. The DCJ has implemented the Winangay Kinship Care Assessment Tool, which emphasises the strengths of relative and kinship carers and adopts a culturally appropriate approach to assessing prospective carers for Aboriginal and Torres Strait Islander children (NSW Government, 2024a). The Winangay Tools are developed by Winangay Resources, an Aboriginal and Torres Strait Islander-led training provider. While the use of tools developed by Aboriginal and Torres Strait Islander organisations is a promising step, there is limited publicly available information regarding how Aboriginal and Torres Strait Islander communities were engaged in the broader decision-making process.

Additionally, in December 2023, the DCJ also published an updated *Guardianship Practice Mandate* that introduced several key changes, which:

- mandate efforts to identify Aboriginal and Torres Strait Islander family, kin and community,
- incorporate the new Permanent Placement Principle, which prioritises 'suitable person or persons jointly' under guardianship above adoption,
- require four cultural consultations for Aboriginal and Torres Strait Islander children and young people,
- align consultation requirements with the Child Placement Principle's five key elements, particularly focusing on partnership and participation with Aboriginal and Torres Strait Islander family, kin, and community in cultural planning decision-making, and
- ensure participation and partnership with Aboriginal and Torres Strait Islander children, young people, families and communities, emphasising that they should lead decision-making when changing a case plan goal to guardianship (NSW Government, 2024a).

These updated guidelines and mandates reflect a commitment to culturally appropriate practices and reinforce the importance of involving Aboriginal and Torres Strait Islander communities in the decision-making processes for child welfare and guardianship. Although a step in the right direction, there needs to be additional oversight mechanisms to ensure accountability. Past reviews, such as those examining the Aboriginal Case Management Policy (ACMP), have identified persistent gaps between policy intention and frontline practice. This underscores the need for an independent mechanism, such as an independent commissioner, to ensure these reforms lead to genuine and meaningful change for community.

Participation

Any child entering OOHC, along with their families and community, must be actively involved in decisions concerning their care. For Aboriginal and Torres Strait Islander children, young people and their families, meaningful participation is not just beneficial, is essential to ensuring agency in DCJ processes. Historically, the DCJ has marginalised Aboriginal and Torres Strait Islander voices, making decisions without their input. Genuine participation empowers children and families to exercise agency over their own lives, shaping decisions that reflect their needs, aspirations and cultural identity. Prioritising their involvement strengthens culturally informed decision-making and ensures that child protection practices uphold their right to be heard and respected.

The DCJ has undertaken various initiatives intended to enhance the participation of Aboriginal and Torres Strait Islander children and families in child protection decision-making. This includes a legislative mandate for decision-makers to incorporate all relevant aspects of the Child Placement Principle into decisions involving Aboriginal or Torres Strait Islander children or young people and to engage in active efforts (NSW Government, 2024a). However, this change was largely necessitated by the persistent failure to implement existing section 12 participation provisions, which have been widely criticised (Libesman et al., 2024).

Furthermore, the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* was amended to allow Aboriginal organisations and entities to present their views to the Children's Court when it considers making orders that significantly impact Aboriginal and Torres Strait Islander families or communities who are not parties to the proceedings (NSW Government 2024a). However, there is currently no transparent mechanism for monitoring or evaluating whether this legislative change has led to meaningful improvements in practice, raising concerns that it may amount to a symbolic gesture rather than a substantive shift in power or outcomes.

In late 2023, DCJ introduced Safeguarding Decision Making for Aboriginal Children (SDMAC) Panels across NSW. Aboriginal Community Controlled Mechanisms (ACCMs) were initially developed by and for Aboriginal and Torres Strait Islander communities to ensure culturally informed decision-making. However, their implementation has been limited, and the development of SDMACs has largely occurred through internal DCJ processes. While current efforts to incorporate community perspectives are a welcome step, SDMACs remain a department-led mechanism and cannot substitute for genuine, community-controlled participation in decisions about Aboriginal and Torres Strait Islander children. They may offer improvements in procedural consistency, but must be understood as distinct from and not a replacement for the original intent of community-led oversight.

Family Group Conferencing

Family Group Conferencing (FGC) is crucial for Aboriginal and Torres Strait Islander communities because it empowers families to be actively involved in child protection decisions, ensuring cultural perspectives and kinship connections are respected. This participatory approach fosters culturally appropriate solutions that are more likely to meet the needs of Aboriginal and Torres Strait Islander children and families, promoting overall wellbeing and resilience.

In 2022-23, a total of 993 Aboriginal and Torres Strait Islander children were included in 442 FGCs. FGCs received \$3.73 million in funding in 2022-23 and, by July 2023, 43% of FGC facilitators were Aboriginal and Torres Strait Islander (NSW Government 2024a). The University of Sydney Research Centre for Children and Families was commissioned by the DCJ to conduct an independent evaluation

of FGC in 2022. The evaluation reported that from 2017 to 2021, 2,424 children were referred to FGC, with 48.8% from Aboriginal and Torres Strait Islander households. Of these, 1,801 children participated in an FGC conference, with 48.5% from Aboriginal and Torres Strait Islander households (Wright et. al., 2022).

Feedback from Aboriginal and Torres Strait Islander participants indicated that the Child Placement Principle, particularly the participation element, was not consistently integrated into FGC practices (Wright et al. 2022). The evaluation also identified variations in goal setting, outcomes and engagement of workers and families, presenting challenges to the broader and more effective implementation of FGC. It also outlined that there is growing concern that DCJ has narrowly prioritised FGC as the preferred model, at the expense of more culturally grounded approaches such as Aboriginal Family-Led Decision Making (AFLDM). DCJ is developing new data and indicators to support AFLDM and FGC in response to a recommendation from the FIC review. However, it has not yet announced when these new data sets and indicators will be implemented.

DCJ is encouraged to avoid a narrow or rigid definition of FGC. Community voices, such as Grandmothers Against Removals, have historically highlighted that more informal responses, such as 'family meetings', are often more effective. Rather than prescribing a singular model, efforts should focus on upholding the principle of AFLDM in ways that reflect community priorities, cultural match and local authority.

Permanency Case Management Policy and Aboriginal Case Management Policy

Section 13(4) of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* suggests that when Aboriginal and Torres Strait Islander children have one non-Indigenous parent, the child should be placed with the individual deemed to be in the child's best interest. In practice, this often results in priority given to non-Indigenous family members due to potential institutional biases (ALS, 2024). The *Permanency Case Management Policy* (PCMP) and its practice guidelines, updated in August 2023, support the assessment and case planning between the DCJ and Permanency Support Planning providers (DCJ 2023). These updates are intended to ensure that the placement of Aboriginal and Torres Strait Islander children aligns with the Child Placement Principle (NSW Government, 2024a), prioritising placement with family or kin as recognised by their Aboriginal and Torres Strait Islander community.

The Aboriginal Case Management Policy (ACMP) and its guidelines were developed in collaboration with the DCJ and AbSec. These guidelines, working alongside the PCMP, are intended to facilitate casework practices that enable Aboriginal and Torres Strait Islander families and communities to participate in child protection processes through AFLDM (NSW Government 2023a). Before the Deputy Children's Guardian for Aboriginal Children and Young People vacated their position in February 2023, the Office of the Children's Guardian (OCG) published a special report highlighting concerns about the ACMP's effectiveness due to insufficient resources and a lengthy seven-year delivery timeframe (OCG, 2022). The OCG identified four strategic priorities for effective ACMP delivery:

1. strengthen Aboriginal and Torres Strait Islander-led services, returning accountability mechanisms to the community,
2. enhance governance and oversight,
3. leverage Aboriginal and Torres Strait Islander family and community strengths, including place-based Aboriginal and Torres Strait Islander cultural models supported by sustainable ACCO

sector investment, and

4. increase Aboriginal and Torres Strait Islander focus in sector regulation (OCG, 2022).

These priorities were endorsed by AbSec and ALS. AbSec has been funded to establish Aboriginal community-controlled mechanisms state-wide, with one such mechanism already set up in the Shoalhaven City Council. Despite the progressive Aboriginal and Torres Strait Islander-led design, the DCJ has not implemented the ACMP across NSW.

These initiatives mark progress in enhancing the child protection system for Aboriginal and Torres Strait Islander children and families through community participation in policy development. While ACCOs play a critical role in delivering culturally safe services, the implementation and oversight of government-led reforms such as the ACMP should not rest with the community sector alone. This highlights the need for strong, independent oversight mechanisms to ensure that policies like the ACMP are effectively implemented, monitored and upheld across the system.

Establishment of the Winha-nga-nha List

The Winha-nga-nha List is a dedicated court list for Aboriginal and Torres Strait Islander families involved in care proceedings at Dubbo Children's Court. Established in response to the FIC Review Report Recommendation 125, it aims to advance the Participation element by creating a more inclusive and culturally sensitive court process for Aboriginal and Torres Strait Islander families involved in care proceedings. The list provides more time for listening, talking and thinking about what is important for the children and includes an Aboriginal Court Liaison Officer to support families and help them better understand the court process. (NSW Government, 2024a).

The Winha-nga-nha List commenced on 4 September 2023, following a co-design process with Aboriginal and Torres Strait Islander community representatives and key stakeholders. As of 4 July 2024, there were 17 active matters on the list. A cross-agency working group led by the Children's Court of NSW is monitoring the operation and impact of the list, with future evaluation planned. Feedback from families and stakeholders has been positive; future evaluations must be underpinned by independent oversight and community-led governance to ensure accountability and genuine responsiveness to community needs (NSW Government, 2024a).

Legal Assistance for Families Partnership Agreement

In October 2023, the DCJ launched the Legal Assistance for Families Partnership Agreement (LAFPA), a collaborative partnership involving Legal Aid, the ALS and DCJ. This initiative relates to recommendation 53 from the FIC Review, which urged the DCJ to update its policies and procedures to ensure all Aboriginal and Torres Strait Islander families receive 'warm' referrals to legal advisors, with a preference for Aboriginal and Torres Strait Islander services, before child protection involvement escalates to the point of considering entry into care. The primary goal of LAFPA is to keep children safe at home with their families, recognising that this objective is best achieved through timely and early intervention with families rather than formal court processes (NSW Government, 2024a). The key principles of LAFPA include respect, communication, early intervention, and family-led decision-making and agency.

Key referral points for LAFPA are before proceedings, to support children in remaining safely at home with their families; during proceedings, when a care application is filed; and post-proceedings, to

support family contact and restoration. From October 2023 to May 2024, the families of 331 Aboriginal and Torres Strait Islander children were supported with a LAFPA referral, demonstrating the program's early reach in providing crucial legal assistance and support to Aboriginal and Torres Strait Islander families (NSW Government, 2024a). While this shows some early reach, more detailed data is needed—such as when referrals were made, who they were made to and what the outcomes were. Clear reporting and independent oversight are important to understand whether the program is working.

Aboriginal Carer Support Service

DCJ has extended the contract for AbSec to deliver the Aboriginal Carer Support Service (ACSS) through to the end of the 2024-25 financial year. The ACSS, managed by AbSec, aims to enhance the information, support and training opportunities available to carers of Aboriginal and Torres Strait Islander children and young people in NSW. Key features of the ACSS include a carer support hotline, bi-monthly carer forums and carer training sessions. In recognition of the increased number of children and young people being case managed by ACCOs in NSW, funding for the program was increased for the 2024-25 financial year (NSW Government, 2024a). However, consistent with broader concerns raised throughout this report, there remains a lack of independent evaluation on the ACSS's outcomes.

Connection

To ensure that Aboriginal and Torres Strait Islander children in OOHC do not experience the profound loss of identity and disconnection from family, community and culture that characterised the Stolen Generations, it is essential to actively support them in maintaining and re-establishing these vital connections. Connection is not just a principle—it is a fundamental right that safeguards children's sense of belonging, identity and wellbeing.

Protecting children's rights to cultural connection requires:

- the development, resourcing and implementation of cultural care plans for every child,
- carers making and being held accountable for their commitment to maintaining cultural connections;
 - this interlinks with participation and strengthens both prevention and placement by ensuring children remain connected to family, community and kin,
- regular review and updating of cultural care arrangements to ensure an enduring commitment to connection,
- early consideration of reunification, with culturally safe supports in place to facilitate reconnection where possible,
- ongoing review and advancement of reunification and re-connection options to strengthen ties with family and community, and
- decisions about permanency of care being made in ways that do not sever or marginalise the potential for future cultural connections.

Prioritising connection ensures that Aboriginal and Torres Strait Islander children grow up with a strong sense of identity, belonging and cultural continuity, shaping their futures in ways that honour their heritage and community ties.

Reunifications

Despite restoration being the highest priority under the Children and Young Persons (Care and Protection) Act 1998 (NSW), NSW continues to have the lowest reunification rates nationally (AIHW, 2024b). In 2022-23, 2.3% of Aboriginal and Torres Strait Islander children were reunified from OOHC in NSW, consistent with 2.2% in 2021-22 (AIHW, 2024b). Comparably, 2.7% of non-Indigenous children were reunified from OOHC in 2022-23 (AIHW, 2024b). These figures reflect a systemic failure to meet legislative obligations and uphold the rights of Aboriginal and Torres Strait Islander children to return home.

Table 8 – Percentage of children aged 0–17 in out-of-home care who were reunified⁷

	2019-20	2020-21	2021-22	2022-23
Aboriginal and Torres Strait Islander children	3.3%	2.4%	2.2%	2.3%
Non-Indigenous children	2.9%	3.1%	2.8%	2.7%

Source: AIHW 2024b, table 10.15.

⁷ Table 6 shows the percentage of children in out-of-home care in NSW who were reunified in the relevant period, including children on short-term guardianship/custody orders, as well as other care and protection order types. These encompass finalised third-party parental responsibility orders, finalised supervisory orders, interim and temporary orders, and administrative arrangements (AIHW 2024b, Table 10.15). Data includes reunification of children with their birth parents, family or a former guardian; though predominantly reunifications are with birth parents.

Children who are reunified with their families from OOHC occasionally return to care, but this is not the case for the majority of children. Whether or not a child returns to OOHC is significant because it is a potential indicator of whether the support provided to the family has been 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, excluding those aged 17 who will transition out of care within 12 months and will no longer be in scope for OOHC (AIHW, 2024b).

Table 9 – Proportion of Aboriginal and Torres Strait Islander children who were reunified from OOHC and did not return to care within 12 months

	2018-19	2019-20	2020-21	2021-22
Aboriginal and Torres Strait Islander children	88.1%	85.2%	84.4%	90.4%
Non-Indigenous children	89.2%	92.8%	89.6%	91.3%

Source: AIHW, 2024b, Table 10.15

Note: Table 9 does not include data from 2022-23.

In NSW in 2021-22, 90.4% 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 91.3% (AIHW, 2024b). This represents an increase from the 2020-21 reporting period, where 84.4% of Aboriginal and Torres Strait Islander children who were reunified did not return to care within 12 months (AIHW, 2024b). Nationally, in 2021-22, 83.7% of Aboriginal and Torres Strait Islander children who were reunified did not return to care within 12 months (85.3% for non-Indigenous children) (AIHW, 2024b).⁸

DCJ is introducing new policies and practices to support reunification. The department has recently updated its Restoration (Reunification) Practice Mandate. This updated mandate includes new practice guidance to promote ‘cultural activities, as determined by Aboriginal cultural consultation and Aboriginal Family-led Decision Making’ (DCJ, 2024b, p. 9). However, beyond the announcement, there is little indication of community-led development, actual implementation, or impact on the ground. The Aboriginal Authority for Restoring Children (AARC) is an Aboriginal community-led initiative being developed by researchers, AbSec and ACCOs, with support from NSW DCJ.

The AARC has emerged directly from the Bring them home, keep them home research led by Wiradjuri woman Associate Professor BJ Newton. The AARC aims to reconnect and restore all Aboriginal children in NSW in long-term care to their families while also facilitating truth-telling and restoration justice for families and greater self-determination for communities. The NSW Minister for Children and Families agreed to support the development of this initiative following her Aboriginal Child and Family Wellbeing Forum in August 2023, though negotiations to realise the AARC since then have met several barriers. Funding has been provided by DCJ for an AARC Discovery Phase for the 2025/26 financial year to further plan and design the initiative. In parallel, DCJ have begun to implement their own internal restoration work as part of its system reforms.

⁸ The source for these calculations has changed from previous reviews, due to changes in AIHW reporting. Source data is from Table 10.15 and 10.19 of the Aboriginal and Torres Strait Islander data table from Child Protection Australia 2022-23 (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) (AIHW, 2022b).

Use of Long-Term and Permanent Care Orders

Children on long-term guardianship custody orders (GCOs) and third-party parental responsibility orders (TPPROs)⁹ are considered unsuitable for reunification, due to the fact that they are on orders that typically last until they are 18 years old - reflecting policymakers' desire for permanent outcomes, which is enshrined in legislation.¹⁰ However, children on long-term orders have often progressed to long-term care because of:

- inadequate efforts to prioritise reunification or even connection with their families,
- insufficient support for families to address the barriers to providing safe care for their children, and
- policies that limit reunification due to short and unreasonable legislative or policy-imposed timeframes (SNAICC 2024).

Nationally, 73.3% of Aboriginal and Torres Strait Islander children in OOHC at 30 June 2023 were on long-term GCOs and TPPROs (AIHW 2024c, Table S4.10). In NSW, this figure was 86.1% (AIHW, 2024c). This means the majority of Aboriginal and Torres Strait Islander children in OOHC are on orders that do not prioritise reunification. The high number of these orders indicates a systemic preference for long-term and permanent care orders for Aboriginal and Torres Strait Islander children, over and above supporting successful and sustainable reunification.

Adoption in NSW

Adoption from OOHC represents an extreme risk to the rights and wellbeing of Aboriginal and Torres Strait Islander children, as it represents the permanent and harmful severing of multiple relational connections, often without consideration of these connections (SNAICC, 2024). In 2022-23, NSW reported that fewer than five¹¹ Aboriginal and Torres Strait Islander children were adopted, all to non-Indigenous adoptive parents (SNAICC, 2024). Comparatively, in 2021-22, NSW reported six adoptions of Aboriginal and Torres Strait Islander children, with only one child being adopted by Aboriginal and Torres Strait Islander carers (NSW Government 2023a). These were the only adoptions reported by any jurisdiction in 2021-22 (SNAICC 2022), reflecting the NSW Government's pursuit of permanent placements despite potential negative impacts on the children's rights and wellbeing.

The inclusion of adoption as an option (albeit the 'last preference') in the permanent placement principles for Aboriginal and Torres Strait Islander children in Section 10A (3) of the Children and Young Persons (Care and Protection) Act 1998 (NSW) is contrary to the strong position of Aboriginal and Torres Strait Islander Peak Bodies that adoption should not be considered for Aboriginal and Torres Strait Islander children in any circumstances (AbSec, 2015; SNAICC, 2023). Organisations like AbSec advocate instead for solutions that keep children within their cultural and community contexts (AbSec, 2015). This approach ensures that Aboriginal and Torres Strait Islander children grow up with a strong sense of identity and belonging, surrounded by people who understand and respect their heritage.

⁹ In this review, we adopt the nationally standard terms long-term Guardianship Custody Orders (GCOs) and Third-Party Parental Responsibility Orders (TPPROs) to refer to Care and Protection Orders under Section 79 of the Children and Young Persons (Care and Protection) Act 1998.

¹⁰ See section 9 of the Children and Young Persons (Care and Protection) Act 1998. An explicit preference for permanent placements is contained within section 13 of the same act, and as such the Aboriginal and Torres Strait Islander Child Placement Principle is subject to the permanent placement principle contained in section 9.

¹¹ Note that this data is presented in this way to minimise the potential for re-identification due to small numbers.

Legislative reform to support Connection

Recent amendments to the *Children and Young Persons (Care and Protection) Act 1998* (NSW) now require DCJ caseworkers to actively strive to restore children or young people to their parents. When this is not feasible or in the child's best interests, the caseworkers must place the child or young person with family, kin, or community members.

In August 2023, DCJ introduced a new restoration policy, which includes several crucial elements: mandatory Aboriginal and Torres Strait Islander consultation for Aboriginal and Torres Strait Islander children, their families and kin;

- mandatory Aboriginal and Torres Strait Islander consultation for Aboriginal and Torres Strait Islander children, their families and kin;
 - this involves the development and review of parent case plans as part of each restoration assessment and prior to any change in the case plan goal,
- mandated use of Aboriginal family-led decision-making to guide assessments, case planning, care and restoration decisions,
- mandated family finding to identify Aboriginal and Torres Strait Islander family, kin and community members;
 - this also includes the mandatory participation of Aboriginal and Torres Strait Islander organisations or community groups in planning processes involving Aboriginal and Torres Strait Islander parents,
- mandated participation of all children in each step of the restoration assessment, planning and decision-making process, and
- mandated engagement of Aboriginal and Torres Strait Islander children in culturally rich activities with their parents, family, kin and community to support restoration.

These new policy positions incorporate legislative requirements for active efforts and the application of relevant elements of the Child Placement Principle in decisions involving Aboriginal and Torres Strait Islander children as per the *Children and Young Persons (Care and Protection) Act 1998* (NSW).

The DCJ is also launching the Family Time Worker (FTW) Program, which will employ up to 240 casual FTWs statewide, with 20% of positions designated for Aboriginal and Torres Strait Islander people. This program aims to facilitate regular, high-quality family time between children in OOHC and their families, supporting reunification with parents. A key feature is considering Aboriginal and Torres Strait Islander children's cultural connections when selecting an appropriate Aboriginal and Torres Strait Islander FTW to work with them (NSW Government, 2024a).

While these reforms and policies represent significant steps forward, their success is contingent on the active involvement of ACCOs. Without ACCOs leading the implementation, monitoring, accountability and oversight of these initiatives, the intended positive outcomes for Aboriginal and Torres Strait Islander children may not be fully realised. The active participation of ACCOs is crucial to ensure that these policies and practices are effectively tailored to meet the unique needs of Aboriginal and Torres Strait Islander communities.

Cultural Support Plans and Cultural Hubs

Maintaining connections is facilitated by Cultural Support Plans (CSPs) guided by the child, their family, the relevant ACCO and their community, aiming to ensure active efforts to maintain the child's connection to culture and community (DCJ, 2024a). In NSW, the proportion of Aboriginal and Torres Strait Islander children in OOHC with a CSP increased from 55.9% in 2020 to 75.5% in 2022 (AIHW 2024b, Table 10.5). According to DJC, this improvement has continued. As of 30 June 2023, there were 6,155 Aboriginal and Torres Strait Islander children in the Program of Response to Intervention in NSW who required a CPS. Of these, 4,904 children, or 79.7%, had a documented CPS (NSW Government, 2024a).

The DCJ collects genogram data for all children subject to an investigation, on orders, or in care. These genograms are generated from family and other relationships input into the child protection client management system, ChildStory. However, DCJ are unable to confirm whether the processes of creating these genograms are compliant with the child placement principle best practice as outlined in SNAICC's The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation (SNAICC, 2019).

DCJ has established Aboriginal Cultural Support Teams (Cultural Hubs) to help Aboriginal and Torres Strait Islander children in OOHC maintain strong connections with their family, culture and community. Cultural Hubs provide expert Aboriginal and Torres Strait Islander practice consultation, support cultural planning and organise cultural activities and community events (NSW Government 2024a). Caseworkers connect families to relevant services, including designated referral pathways to FGC, intensive services and alternative interventions such as parental responsibility contracts, parenting capacity orders and temporary care agreements (NSW Government 2024a). Although Cultural Hubs have been established across NSW, the number of Cultural Hubs created and their effectiveness, as well as their level of partnership with ACCOs, families and communities, remain unknown.

Leaving Care Plans

Preventing inter-generational cycles of child protection involvement requires robust transition planning for Aboriginal and Torres Strait Islander children leaving care. As of 30 June 2023, there were 1,237 Aboriginal and Torres Strait Islander young people aged 15-17 years with Parental Responsibility to the Minister in NSW who required a leaving care plan (NSW Government, 2024a). Of these, 946 (or 76.5%) had a current documented and approved leaving care plan (NSW Government, 2024a). Ensuring that all eligible young people have comprehensive leaving care plans is crucial for their successful transition to independence.

Maintaining connections between siblings

Maintaining sibling connections for children in OOHC is crucial, as these relationships provide a sense of stability, support and continuity in their lives amidst the challenges of being in the care system. On 30 June 2023, there were 6,563 Aboriginal and Torres Strait Islander children in OOHC in NSW. Of these, 5,159 children (78%) had at least one sibling in OOHC. Among them, 3,457 children (67%) were placed with at least one sibling, 1,345 children (26%) were not placed with their siblings, and the co-placement information for 357 children was unknown (6%).

Aboriginal and Torres Strait Islander Guardianship Support Model

Between 2019 and 2021, the DCJ funded AbSec to design and commission an Aboriginal Guardianship Support Model (AGSM), in line with Aboriginal-led commissioning. The AGSM was trialled in the Hunter and South West Sydney regions from January 2022 through December 2023 and evaluated for potential expansion to other areas (AbSec, 2025). Through this model, ACCOs collaborate with Aboriginal and Torres Strait Islander children, their families and communities to foster their wellbeing and ensure they remain culturally safe and connected. ACCOs facilitate client access and connections to tailored support services and assist with the planning and coordination of goals, as well as the development of financial and cultural care plans (NSW Government, 2024a).

Conclusion

In examining the progress of the NSW Government towards implementing the full intent of the Aboriginal and Torres Strait Islander Child Placement Principle, this review has found that overall significant reforms are still needed, along with sustained increases in investment in the ACCO sector. In 2023-24, NSW had high rates for both OOHC entry and exit among Aboriginal and Torres Strait Islander children, underscoring the case for ongoing systemic reform.

The continued over-representation of Aboriginal and Torres Strait Islander children in OOHC in NSW urgently requires more investment in early and preventative supports delivered by ACCOs, enabling culturally responsive mitigation of the socio-economic drivers that increase the likelihood of contact with child protection, in line with the Prevention element. The NSW Government's support of ACCO leadership through the Ministerial Aboriginal Partnership Group works toward the fulfilment of the partnership element. Despite this, greater commitment to independent Aboriginal and Torres Strait Islander leadership and oversight is critically needed to enable system accountability, as recognised by the FIC Review and the final report of the System Review into OOHC.

Limited increase in the numbers of Aboriginal and Torres Strait Islander children in OOHC being placed with relatives/kin indicates that more effort is required to reform the PSP system and implement the placement principle, and the successful implementation of the Participation element must be further enabled through the extension of ACCO-led programs, which require expansion and increased long-term funding. Greater investment in ACCO-led reunification and cultural support programs is also desperately needed to ensure fulfilment of the Connection element.

This review welcomes reforms through strategies such as the Aboriginal OOHC Transition Project, the Winangay Kinship Care Assessment Tool, and the Aboriginal Guardianship Support Model. This review hopes that moving forward, programs such as these are expanded and further developed under the leadership of the NSW ACCO sector and Aboriginal and Torres Strait Islander communities.

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