

Submission to the Inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principle in the removal and placement of Aboriginal children in South Australia.

Family Violence Legal Service Aboriginal Corporation (SA)

The Family Violence Legal Service Aboriginal Corporation (SA) is a Family Violence Prevention Legal Service and Community Legal Centre that provides legal and non-legal services across a large part of regional South Australia, including Port Augusta, Ceduna and Port Lincoln and outlying areas. Our clients are Aboriginal and Torres Strait Islander people who are victim/survivors of family violence and sexual assault. We also assist non-Indigenous people who have Aboriginal children in their care. A significant portion of our work involves working with parents whose children are either at risk of being removed from them by the Department for Child Protection, or more often have already been removed. We also have clients who have had children placed into their care by the Department for Child Protection.

The difficulties faced by Aboriginal people are complex – the ongoing impacts of colonisation and intergenerational trauma are always present, and families grapple with issues related to poverty, housing scarcity, incarceration, drug and alcohol abuse, mental health and family violence. For those living in regional, rural and remote South Australia, accessing appropriate support is even more challenging.

The application of the Aboriginal and Torres Strait Islander Placement Principle is inconsistent, and this is reflected in largely poor outcomes for Aboriginal families who get caught up with South Australia's child protection system. We see parents who feel hopeless, who aren't educated about their options and who have made positive changes to address safety concerns without this being acknowledged or affecting the outcome of their interactions with the Department for Child Protection.

Children are removed not only from their family, but often too from their communities, with siblings separated and growing up without knowing their family connections, and their culture. It seems that at every stage of intervention by the child protection system, there is a systemic failure to ensure accountability for compliance with the Aboriginal and Torres Strait Islander Placement Principle. These submissions touch on some of the issues and possible solutions.

There are inadequate resources available to support families at an early stage when intensive support could make a difference and ultimately might prevent the removal of children from their parents. From our experience listening to clients it is apparent that concerns raised by families who are seeking support from the Department for Child Protection are not always adequately acknowledged and responded to until things have escalated and a child may no longer be safe. When there is early support and intervention, concerns can be addressed before they grow into something that families and the Department struggle with.

Further, when Aboriginal and non-indigenous carers are seeking support from the Department, they are also not always adequately listened to and provided with the help they need, despite the Department placing the child in their care in the first place. This can also lead to situations escalating out of the control of the carer. This is not good for the child, the carer, the Department or the broader community. Family members who take on care of children must be adequately supported financially and with whatever practical support is required to ensure the success of the placement. If

Aboriginal Controlled Organisations are adequately funded this could help them to provide support and early intervention to families and carers.

We note that many kinship carers will have experienced their own trauma with DCP either because they have been a child in the system themselves or because their own children have been taken from them at an earlier point in their life. This makes it difficult for them to have a relationship with DCP if they become a carer. It would be beneficial if there was an Aboriginal Community Controlled Organisation that is specifically designed to offer support and advocacy to Aboriginal kinship carers.

Ongoing support to families after child removal is also important, and is currently lacking. The need for love and connection to family is so strong that children who have been removed by DCP often try to return when they are old enough regardless of the risks which led to their removal. Unless support is provided to the family, children return to an environment which is not safe.

The powers of the Department for Child Protection to investigate, work with families and remove children should be delegated to Aboriginal Community Controlled Organisations to ensure there is a focus on culturally appropriate service delivery at all points in engaging with families, including traditional cultural healing processes. Cultural healing is important. Aboriginal people cannot be disconnected from culture, community and country and be expected to address issues. Aboriginal organisations must have agency and be empowered to work with families and communities.

When an order is sought to place a child under the Guardianship of the Chief Executive, the Chief Executive's legal representative should be required to address the court explicitly on the application of the Aboriginal and Torres Strait Islander Principle to ensure that it is front and centre in the proceedings. The Youth Court itself should be adequately resourced to ensure each matter can be given adequate attention, and not be rushed. It is of particular importance that parents who have limited English skills are provided with interpreters so that they understand what is happening and have the opportunity to be heard, and that they also be able to access legal advice and representation. It would also be meaningful if the Youth Court could go on circuit so that parents in regional and remote areas may appear before a judicial officer in person rather than by phone or video conference.

Lawyers who represent Aboriginal children should have training to ensure that they have a strong understanding of cultural issues, and that they interview the children in a trauma informed manner. Such training should incorporate information on the Aboriginal and Torres Strait Islander Placement Principle. Family Group Conferences, whether held before proceedings are issued, or during the course of proceedings, must ensure that the scope of family invited to participate is broad enough so that there is every opportunity to find a solution to keep the child within family and community.

Families can also be empowered by being made aware that an alternative solution may lie in seeking orders from the Federal Circuit and Family Court of Australia, which in Adelaide runs a dedicated Aboriginal and Torres Strait Islander list.

Only after all other options are eliminated should children be placed with a non-indigenous carer, and that must be conditional on the carer being willing to actively keep the child connected to their family, community and culture. A placement should not come at the expense of connection with family and culture. If the connection is broken, children risk growing up not knowing where they are from or who their family is. Culture is a right, not something that is given, and is a key component in children's development. Culture provides children with a feeling of safety and helps them to grow up proud and strong.

There are many considerations in regard to the application of the Torres Strait Islander Placement Principle, but change will be most effectively be driven by empowering Aboriginal Controlled Community Organisations to work with Aboriginal families and carers, and for there to be increased mechanisms to ensure accountability for compliance with the Principle.

In closing, the Family Violence Legal Service Aboriginal Corporation acknowledges the traditional owners of the lands across South Australia and we pay our deep respects to Elders past, present and future.