

KWY Submission - 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 to the Commissioner for Aboriginal Children and Young People.

March 2023

Who we are

KWY Aboriginal Corporation has 12 years of experience providing support services that are responsive to the needs of the Aboriginal community and people. We provide Aboriginal people, families, and communities with cultural services and supports that build positive change. KWY provide services and support in child protection, domestic and family violence, youth work, kinship care, disability, mentoring, Aboriginal education outcomes and perpetrator intervention.

The safety of women and children is at the heart of everything we do. We aim to improve the safety of women and children by providing specialist knowledge and culturally appropriate services to break the cycle of domestic violence and stem the flow of Aboriginal children into the child protection systems across Australia.

Acknowledgement

KWY Aboriginal Corporation acknowledges that we operate on the many different lands of the Traditional Owners.

We acknowledge and pay respect to the ancestors and Traditional Owners that walked and managed these lands for many generations before us.

We acknowledge the great diversity in language, cultures and histories of Aboriginal and Torres Strait Islander people. We acknowledge and recognise all Aboriginal people who have come from their own country and who have now come to call this country their home.

We acknowledge and pay our respect to Aboriginal:

- Elders both past and present who are our knowledge holders, our teachers
- Youth who are our hope for a brighter and stronger future
- Community members who have gone before us and recognise their contribution to our people and our community

We acknowledge the resilience and strengths of Aboriginal families and Community. We will draw on these strengths and use culture to protect and heal our children, families and communities. We believe that strategies and initiatives developed and led by local Aboriginal people are the most appropriate for addressing the current difficulties that impact Aboriginal people, families and communities.

Our submission

KWY Aboriginal Corporation welcomes the opportunity to lodge this 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. We strongly believe this process provides an important opportunity to analyse how the Principle impacts the rights, development and wellbeing of Aboriginal children and families.

In making this submission to the Commissioner for Aboriginal Children and Young People KWY has focussed on the experiences and the observations of KWY staff, Aboriginal and non-Aboriginal, in their experiences within these areas that are most relevant to our work with Aboriginal children and families who have had dealings with child protection sector.

We hope our submission, alongside many others, will compel the Australian government to take immediate action to examine the policies, practices and procedures of State authorities in applying the Aboriginal Child Placement Principle when removing and placing Aboriginal children.

Overview

KWY recognise the cultural strengths of Aboriginal child-rearing practices have provided nurturing environments to raise children in strong and safe for thousands of years. However, families and communities face adversity and structural barriers that can contribute to children entering the child protection system. SNAICC's Family Matters Report identifies these barriers as:

- Intergenerational trauma
- Institutional racism
- Socioeconomic disadvantage
- Substance misuse and smoking during pregnancy
- Poor access to safe, affordable and quality housing
- Exposure to family and community violence, and
- Poor mental health.

Ensuring cultural safety, healing, and connectivity for all Aboriginal children and young people in care is at the heart of the Aboriginal and Torres Strait Islander Child Placement Principle. This Principle is the benchmark for all decisions regarding child welfare decisions for Aboriginal children and young people and is grouped into five core areas of compliance: prevention, partnership, placement, participation, and connection (SNAICC, 2017; 2019). The Background Paper for this Inquiry highlights that implementation of the Principle is at times poor and many placement decisions are not in accordance with the Principle. As it stands:

- Aboriginal and Torres Strait Islander¹ children are **10.4 times more likely** to be in out-of-home care than non-Aboriginal children (Family Matters),
- The 2022 Closing the Gap report details that progress to reduce the overrepresentation of Aboriginal children in out-of-home care **has regressed** (CTG 2022), signaling urgency to address this issue.

In comparison with other states, South Australia has:

¹ From here on Aboriginal and Torres Strait Islander is referred to as Aboriginal.

- the **second highest rate** in the country of Aboriginal children entering out-of-home care and (Family Matters),
- the **second lowest funding** record for family support services,
- the **third lowest funding** for Aboriginal Community Controlled Organisations nationally (Lawrie),
- the **lowest rate** of reunification of Aboriginal children with their family or kin and
- the **lowest placement** of Aboriginal children with kin or Aboriginal carers (Family Matters)

Key Themes

Aboriginal children and young people must be in an environment that is spiritually, socially, physically, emotionally, and culturally safe at all times. KWY acknowledge that too many Aboriginal children are living in inappropriate foster and residential care placements, despite there being suitable kinship care arrangements available. However, too little is being done to assess, facilitate and support these placements. An example of this is when a potential kinship care home is assessed as 'unsuitable' based on the reasoning that the home is 'too small' meaning the child will not be able to have their own room if placed within this home. This is contradictory considering a child would not be removed from their home based on this same reasoning. Systemic and prejudiced barriers like this are far too familiar and lead to significantly harmful effects. KWY work intensely close with families navigating the child protection system and believe these figures of overrepresentation demonstrate a disregard to their human and cultural rights.

Likewise, when a child enters the care system, there are significant concerns regarding families not being referred to culturally appropriate services to provide the support and knowledge necessary to connect to culture and explore their Aboriginal identity. KWY receives numerous referrals and related case plans that do not contain any information about the families' Aboriginal identities, and without any indication that this is being followed up as a priority by DCP. This lack of information significantly impacts the supports that the children and families have available to them and reduces the effectiveness of the Principle that is in place to protect Aboriginal children from harm and suffering and to foster cultural safety and connectivity.

Additionally, Aboriginal children and families involved in the child protection sector often present with a wide range of complex issues at intake including loss, grief and anger associated with the potential removal of their children, trauma, poor mental health, financial hardship, housing stress and homelessness, exposure to family and domestic violence and substance misuse. These families require wraparound support and this is best placed to be delivered by an Aboriginal-led service who understands these complexities from a professional and cultural perspective.

Trauma informed

Trauma informed, culturally responsive therapeutic services will aim to help clients to heal culturally, mentally, emotionally, and spiritually. Aboriginal and Torres Strait Islander people are suffering disproportionate mental health, employment, education, social and psychological impacts due to the effects of intergenerational trauma and ongoing experiences of disadvantage and exclusion (VACCA 2019). Descendants of the Stolen Generations are 1.3 times as likely to have poor mental health and 1.4 times as likely to have a low level of satisfaction with their lives (Australian Institute of Health and Welfare and Aboriginal and Torres Strait Islander Healing Foundation 2018). Such statistics are

evidence of the complexities that Aboriginal people face, including family and domestic violence, intergenerational trauma, grief and loss, substance misuse, lack of trust in school and institutions, isolation, lack of information, and more. KWY have fund programs with trauma-informed case management is a critical for success.

An Aboriginal Response for Aboriginal People

There are limited Aboriginal specific services for Aboriginal people. Many Aboriginal people do not feel culturally safe engaging with state authorities or generic service. The community advises that underutilisation and failure of these services is the result of limited trust, safety, and confidence in mainstream services, and the lack of culture awareness and cultural understanding these services have. Aboriginal people require a specific response that is culturally safe and appropriate and delivered by an Aboriginal organisation.

For example, an Aboriginal understanding of family differs from the Western 'nuclear' family model. As such, services which are delivered by Aboriginal organisations and actively involve Aboriginal communities and Practitioners are capable of anticipating and negotiating these differences in culturally appropriate ways. It is important to provide programs and deliver services through an Aboriginal cultural voice that, reflects their priorities and needs.

KWY utilises a strengths-based and empowerment approach to working with clients. We employ the strengths of Aboriginal culture, recognising culture as a strong protective factor. KWY work on relationship building with community, family and friends which acts as a protective factor for many clients. We empower families to be decision-makers taking agency of their own lives. KWY program's are designed considering Aboriginal contexts, focusing on:

- Culture is seen as a strength
- Community and family strengths and connections
- Acknowledging the impact of trauma, intergenerational trauma, and need for an Aboriginal trauma informed response
- Recognising the connection between family, identity, kinship and culture
- Employing Aboriginal staff where possible and staff who are culturally aware and training and can be trusted by clients and community
- Acknowledging the importance of family, home and community learning environments
- Acknowledging that families make decisions that affect them and their community
- Utilising soft entry approaches to create safe spaces for Aboriginal People
- Partnerships with other organisations that can offer families support
- Family led decision making and narrative therapy
- Local knowledge from community members to inform practitioners of any strengths and/or barriers that are geographically specific
- Our cultural understanding is acknowledging that our Aboriginality is physical and spiritual. Clients often seek help for both areas as they are joined together.

Aboriginal Community Controlled Organisation Response

Funding is often funnelled to mainstream organisations that possess low levels of knowledge and understanding of the complexity of domestic and family violence and child safety but lack the culturally specific knowledge needed to address the unique needs of Aboriginal and Torres Strait Islander survivors. Additionally, mainstream services often fail to understand the barriers that are uniquely experienced by Aboriginal and Torres Strait Islander survivors and lack the skills to engage with families, find solutions and build trust. For example, Aboriginal and Torres Strait Islander children are disproportionately represented in the Child Protection System which prevents women from reaching out to state institutions for help when experiencing DFV out of fear it will cause their children to be removed (Family matters 2021). Rather, Aboriginal people require a specific response that is culturally safe and appropriate and delivered by an Aboriginal organisation. KWY has proven experience of employing cultural safe communications with families to bridge the gap of distrust Aboriginal parents and children have with DFV support services.

Currently, there are limited Aboriginal Community Controlled Organisations (ACCOs) delivering services to the Aboriginal community and people. Research has shown and reflected in the Closing The Gap plan and priority reforms, there is a need to support ACCOs and that Aboriginal businesses increase positive outcomes for Aboriginal communities. Aboriginal-led services foster self-determination and thus a sense of control and confidence. Supporting this model also means that services are holistic, culturally safe, and more trusted by the community.

In our experience, what has worked well?

KWY recognise that when adhered to, the Principle can achieve positive results:

- The Principle supports connection and reconnection to kinship and cultural connection. Aboriginal children have the best outcomes when they have access to all the options, by having a strong and vibrant connection to their culture, community and family. This enables the Principle to be employed to its full effectiveness.
- Holding DCP to account to ensure they have a PAC (Principal Aboriginal Consultant) involved, to review all decisions around the removal of Aboriginal children and to ensure all family avenues are explored for supports and placement.
- When the placement hierarchy is followed, children primarily go into the care of family. Without this hierarchy in place, children often end up in residential or commercial care arrangements with paid staff or in foster care arrangements with families with whom they have no connection or cultural safety. Once in this system, children seldom leave nor do they recover from the trauma suffered as part of their removal.
- Aboriginal designed and led initiatives and programs. Programs that are delivered by ACCOs provide a services that is culturally safe and meets the needs of the community.
- Programs are effective when there is a focus on a healing, trauma informed case management, and culturally safe tools.

In our experience, what didn't work well?

KWY recognise that the implementation of the Principle is inadequate, resulting in a disproportionate number of Aboriginal children and families coming into contact with the child protection system.

- The Principle cannot be fully effective if ALL the elements are not adhered to. As a result, families remain disconnected from, and unaware of, cultural, community and family connections.
- DCP policies which eliminate placement options (ie. 'not enough room', historical DCP and/or SAPOL involvement) often directly hinders children being able to enter otherwise suitable kinship placements.
- Aboriginal children being removed from the family and placed in commercial, residential or foster care arrangements – these arrangements are not suitable for Aboriginal children and occur when DCP has not thoroughly scoped the child's kin for a suitable kinship arrangement for placement.
- Firsthand feedback from a child protection worker advised that the 'family scoping' process is not always thorough, and as a result, a child can be placed in out of home care arrangements, thus completely removed from their family and their culture. An example of this, despite being flagged as 'high-risk' by DCP early in her pregnancy, an unborn child's kin is not thoroughly explored in due time and communication efforts with family are poor, resulting in the implementation of a safety plan and the child being removed from the mother hours after birth and placed in emergency care.
- A PAC from DCP is not involved in every case resulting in decisions being made without appropriate cultural safety and support. Additionally, PAC involvement can be viewed by families and support services as merely 'advisory'.
- The lack of sought after knowledge from an ACCO working alongside the family
- Large amounts of funding are allocated to non-Aboriginal Organisations to deliver these specialist services to Aboriginal families. The non-Aboriginal Organisations possess knowledge of the complexity of child safety and domestic and family violence but lack the culturally specific knowledge needed to address the unique needs of Aboriginal and Torres Strait Islander people.
- DCP offer the family and child cultural support – while this is a good intention to connect the child to their culture, it is often executed poorly and is instead a tokenistic, tick-box gesture.
- Culturally specific family mapping tools are being overlooked.
- Culturally responsive mapping tools implemented in the early stages of Aboriginal designed programs within ACCO's then being replaced with western, mainstream mapping tools. This creates a lack of culturally relevant information being captured and the white washing a culturally informed model and practice leading to data and evidence-based approaches having no Aboriginal lens or understanding

We think things can be improved by:

KWY recognise some key areas to enhance implementation of the Principle and improve outcomes for Aboriginal children and families:

- Increased ACCO Gazetted organisations
- DCP taking responsibility for referring families who cannot provide any information about their community and cultural connections to culturally appropriate services such as 'Link Up' as a matter of priority to offer links to Aboriginal identity and promote cultural connectivity.

- Looking for ways to facilitate and support kinship placements where options are identified instead of assessing these options as unsuitable based on white, Westernised criteria and values.
- Having more options for placement consultations, including consulting directly with identified community members/elders and councils (from the child/ren's identified community), embedded in the Aboriginal Child Placement Principle to ensure a more culturally appropriate and robust process.
- Increased cultural training and resources for all DCP workers, other connected professionals to culturally support Aboriginal children in the child protection system – more Aboriginal workers from different mobs, individual cultural workers for all children in care.
- Increase and more robust resources for scoping potential kinship arrangements if a child has to be removed.
- Increased funding aimed at ACCOs in the early intervention and prevention space (trauma-informed and strength based). There are too many mainstream services providing supports for Aboriginal people despite a strong belief that the white (Western) systems don't work for Aboriginal people.
- More accessibility to suitable support services such as housing and financial support, to prevent homelessness and move families out of poverty situations.
- Increased access to Family Group Conferencing or another form of Aboriginal-led Family Decision Making as a requirement prior to any child being removed, as well as following removal to give the family a voice in the decision making for the child. Additionally, FGCs to be undertaken by ACCO's not DCP.
- Employment of more Aboriginal workers from different mobs as cultural workers for all children in the care system, providing a supportive relationship with a deeper understanding separate from DCP Social Workers.
- Increased involvement of PAC's within DCP and increased direct communication between PAC and ACCO's providing support to the families.
- Increasing funding and ring fencing of funding for ACCO's. ACCO receive a small pool of funding comparative to the overrepresentation of Aboriginal people in the sector.
- Increased funding for early intervention and prevention. The vast majority of funding is sent at the pointy end, where children are being or about to be removed. We need a greater emphasis on supporting families prior to the point where remove is an option.

Conclusion

Thank you for the opportunity to lodge this 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. KWY will continue to advocate and support Aboriginal children and families navigating the child protection system. We hope that as a result of this Inquiry the systemic and prejudice barriers that hinder the thorough implementation of the Principle can be suitably addressed and Aboriginal children and families can remain safe and connected to the family, community and culture.

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