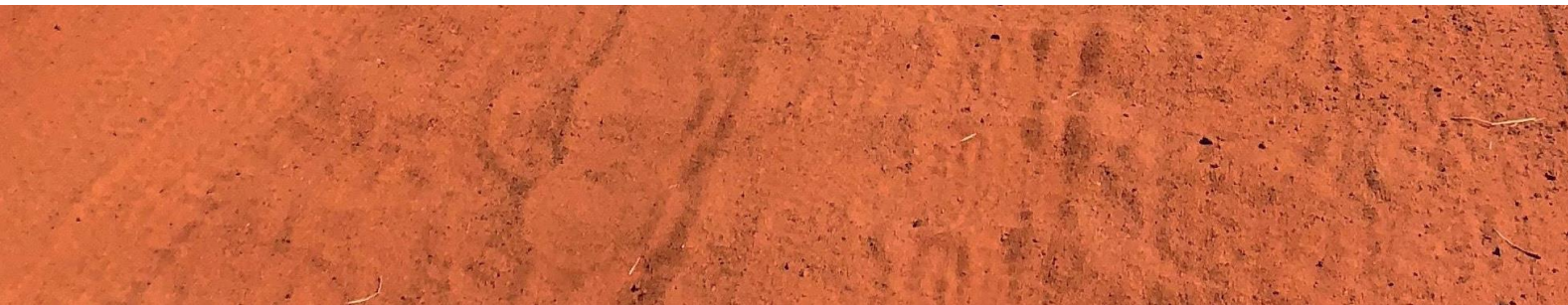




Inquiry into the removal and placement of Aboriginal children in South Australia

South Australian Aboriginal Community Controlled
Organisation Network

12 May 2023



Acknowledgement

We acknowledge the traditional owners of country across South Australia and pay our respects to Elders, past and present. We respect their spiritual relationship with country, and ongoing cultural and heritage beliefs that are still important today.

A note on language

- We use the term **Aboriginal** to refer to people who identify as Aboriginal, Torres Strait Islander, or both Aboriginal and Torres Strait Islander Peoples, Clans and Traditional Owner Groups whose traditional lands comprise what is now called Australia.
- We use the term **Indigenous** as it relates to Indigenous peoples globally as well as in the human rights context.
- The terms **First Peoples** and **First Nations** are employed in the Australian context, by recognising that Aboriginal and Torres Strait Islander peoples are the First Peoples/First Nations of this land, it directly relates to their inherent un-ceded sovereignty.
- The terms **children** and **young people** are used interchangeably to refer to all children and young people.

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About SAACCON

On 27 July 2020, all Australian Governments entered into a Partnership with the Coalition of Peaks. This Agreement is referred to as the National Agreement on Closing the Gap (National Agreement). The Coalition of Peaks is comprised of national, state and territory non-government Aboriginal and Torres Strait Islander Peak bodies and certain independent statutory authorities which have responsibility for policies, programs and services related to Closing the Gap, to improve life outcomes for Aboriginal and Torres Strait Islander people. Their governing bodies are elected by Aboriginal people or organisations and are accountable to their membership. The South Australian Aboriginal Community Controlled Organisation Network (SAACCON) is the South Australian jurisdictional representative on the Coalition of Peaks.

SAACCON is a network of Aboriginal Community Controlled Organisations (ACCOs) in South Australia and has been established to provide advice, recommendations and guidance to the Coalition of Peaks, and the South Australian, Commonwealth and Local Governments on the National Agreement on Closing the Gap. At the time of publishing, we represent 23 member organisations spanning South Australia.

National Agreement on Closing the Gap

The National Agreement builds upon the National Indigenous Reform Agreement (NIRA), known as Closing the Gap. Significantly, this current agreement has been made between the Australian governments *and* Aboriginal people. Historically the agreement had been made with only government involvement. The revision of parties involved supports evidence that has long suggested that the inclusion of Aboriginal people in the design of programs and policies which will affect their lives will achieve greater outcomes (Tom Calma, 2007).

Whilst the inclusion of Aboriginal people in policy and program design is critical, so too is the level of funding allocated to Aboriginal community-controlled organisations (ACCO's) for programs and services as per Clause 55 of the National Agreement, which commits government parties to:

- (a) implementing funding prioritisation policies across Closing the Gap outcomes to Aboriginal and Torres Strait Islander Organisations; and
- (b) allocating a meaningful proportion of funding for new initiatives to Aboriginal community-controlled organisations appropriate to service demand and capacity.

The National Agreement commits the parties, particularly government, to change the way they work to improve the lives of Aboriginal people. This will be done through partnership actions focusing on 4 Priority Reforms and 17 Outcomes (Australian Government, 2019).

All Priority Reforms and most of the 17 Outcomes are interconnected to the Child Protection space all of which have equal importance. However, the intention of Priority Reform 3 is to address systemic and structural transformation of government agencies to improve accountability and respond to the needs of Aboriginal people.

The elements of transformation include:

1. Identify and eliminate racism
2. Embed and practice meaningful cultural safety
3. Deliver services in partnership with Aboriginal organisations, communities and people

4. Increase accountability through transparent funding allocations
5. Support Aboriginal culture
6. Improve engagement with Aboriginal people

South Australian Implementation Plan

On 29 July 2021, SAACCON and the South Australian Government entered into a partnership arrangement to work collaboratively, through the actions in the South Australian Implementation Plan and future arrangements with all Governments to which we are a party. This Plan remains in place under the Malinauskas government.

Notably, through the Implementation Plan, the Government has also promised to progress amendments to the *Children and Young People (Safety) Act 2017* (the Act) in the following ways:

- The Aboriginal and Torres Strait Islander Child Placement Principle will be embedded in the Act as the principal framework for all statutory child protection decision-making relating to Aboriginal children and young people.
- The Act will be extended to ensure statutory functions, particularly investigations and guardianship, can be delegated to Aboriginal organisations and people.

Partnership Agreement

On 10 November 2022, SAACCON and the South Australian Government signed a Partnership Agreementⁱⁱ. The Partnership Agreement is aligned to the National Agreement and to the United Nations Declaration on the Rights of Indigenous Peoplesⁱⁱⁱ and as such operates under the foundational principles of:

- Self-determination
- Participation in decision-making
- Free prior and informed consent and good faith
- Respect for and protection of culture
- Equality and non-discrimination

The objectives of the Partnership are to:

- Enhance outcomes for Aboriginal people
- Share ownership and responsibility for the implementation of the National Agreement in South Australia
- Advance Aboriginal involvement, engagement and autonomy through equitable participation, shared authority and decision making in relation to the implementation of the National Agreement in South Australia.

Under this Partnership, SAACCON and the SA Government will be working towards 7 Schedule Agreements across the sectors. The actions in these Schedules will reflect the early actions from the SA Implementation Plan and new actions, as a result of earlier Partnership Workshops that occurred in 2022.

Context

The consultation process

The role of Commissioner for Aboriginal Children and Young People has been active since 2018, and is *the only independent body created solely to promote the rights, development and wellbeing of Aboriginal children and young people within South Australia, at a systemic level.*¹

The Commissioner and her office have been strong advocates for change in spaces that impact the service delivery outcomes of ACCO's. One such area that has been called for reform is the Right to Family. In the 2021-2022 Annual Report, it was reported that "*less than half were placed in line with the placement hierarchy.*"

Other notable calls for action by the Commissioner's office include the need for a specific Aboriginal Peak Body for Child Protection, and true self-determination to be fulfilled and continue in the work of ACCO's.

SAACCON welcomes the opportunity to provide input to the Commissioner for Aboriginal Children and Young People (the Commissioner) Inquiry into the removal and placement of Aboriginal Children in South Australia (the 'Inquiry'). The Commissioner has facilitated and completed open public consultations as well as targeted conversations and facilitated consultations with key target stakeholders. SAACCON Members and the Secretariat were invited to meet with the Commissioner on 21 February.

Member organisations present at these sessions included:

- Aboriginal Family Support Services Inc
- Aboriginal Health Council of SA Ltd
- Aboriginal Legal Rights Movement
- InComPro
- KWW
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Women's Council
- Nunkuwarrin Yunti
- Pangula Mannamurna Aboriginal Corporation

The Secretariat is also including a written submission to provide additional detail and clarity to the review. We also acknowledge that members of SAACCON and national peak bodies have also contributed to the Review through individual submissions.

The story that is told by the current data for child protection in South Australia remains a serious concern for the Aboriginal Community Controlled Organisation sector. The history of removal of children in this country serves as a painful reminder of past policies that are still being echoed today.

The actions that took place a century ago have not stopped. Aboriginal people are still subjected to:

- structural power imbalance
- inequitable funding
- high removal rates of children (to the point that South Australia has the second highest rate nationally)
- voices not being heard

¹ <https://cacyp.com.au/about-us/>

- a lack of respect and value for the experience and expertise that Aboriginal staff bring to their roles
- lack of cultural understanding by mainstream services
- attitudes that are slow to change
- legislation that imposes western values on Aboriginal people and
- little to no accountability from Australian Governments to the Aboriginal people.

Dr Tracey Westerman reminds us that, *“the struggles are more personal. Aboriginal people work in the same system that forcibly removed their families and then denied they did it for 207 years. Many also fulfil the dual function of client and worker – being foster carers themselves. Adding to the layers of trauma is that Aboriginal workers are also related to many of their clients.”*² Aboriginal people have lived in an emotionally charged environment for decades, and our parents and grandparents before us.

It is hoped that the Aboriginal voices that have contributed to this inquiry will encourage the fulfillment of promises that have been made by federal and state governments to *reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out of home care.*

² [OPINION: Fixing the broken system of Indigenous child removal | SBS NITV](#)

Alignment of current issues to the Closing the Gap Framework

This new paradigm is informed by the principles of partnership, the importance of Aboriginal leadership, and an ambition for governments to work with the Aboriginal community for improved outcomes in all domains of life.

Socioeconomic outcome 12 of Closing the Gap requires that Aboriginal children are not overrepresented in the child protection system.³ In SA's Annual Report on Closing the Gap for 2021-22, this outcome is seen to have worsened since the preceding year, with the number of Aboriginal and Torres Strait Islander children in out-of-home care increasing. Through the South Australian Joint Implementation Plan (the 'Implementation Plan') The Department for Child Protection, alongside the Department of Human Services have promised to "*work in partnership with Aboriginal stakeholders to develop and implement a South Australian-specific plan to focus the efforts of government, services and communities to achieve the goal of reducing the over-representation of Aboriginal children and young people in care.*"⁴

Priority Reform 1 – Formal Partnerships and Shared Decision-Making

Australian governments and each jurisdiction have committed "*to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap.*" This commitment is referred to as 'Priority Reform 1' in both the National Closing the Gap Framework and the South Australian Joint Implementation Plan.

Strong partnership elements have been identified in these documents as follows:

Strong partnership elements

The Parties agree that strong partnerships include the following partnership elements:

- a. Partnerships are accountable and representative and are between:
 - i. Aboriginal and Torres Strait Islander people, where participation in decision-making is done by Aboriginal and Torres Strait Islander people appointed by Aboriginal and Torres Strait Islander people in a transparent way, based on their own structures and where they are accountable to their own organisations and communities
 - ii. up to three levels of government, where government representatives have negotiating and decision-making authority relevant to the partnership context
 - iii. other parties as agreed by the Aboriginal and Torres Strait Islander representatives and governments.

- b. A formal agreement in place, that is signed by all parties and:
 - i. defines who the parties are, what their roles are, what the purpose and objectives of the partnership are, what is in scope of shared decision-making, and what are the reporting arrangements, timeframes, and monitoring, review and dispute mechanisms
 - ii. is structured in a way that allows Aboriginal and Torres Strait Islander parties to agree the agenda for the discussions that lead to any decisions
 - iii. is made public and easily accessible

³ Attorney-General's Department (2022) "South Australia's Annual Report 2021-22 – National Agreement on Closing the Gap", p.82, <https://www.agd.sa.gov.au/aboriginal-affairs-and-reconciliation/closing-the-gap/annual-report/South-Australias-Annual-Report-2021-22-National-Agreement-on-Closing-the-Gap.pdf>

⁴ SAJIP p.79

- iv. is protected in state, territory and national legislation where appropriate.
- c. Decision-making is shared between government and Aboriginal and Torres Strait Islander people. Shared decision-making is:
 - i. by consensus, where the voices of Aboriginal and Torres Strait Islander parties hold as much weight as the governments
 - ii. transparent, where matters for decision are in terms that are easily understood by all parties and where there is enough information and time to understand the implications of the decision
 - iii. where Aboriginal and Torres Strait Islander representatives can speak without fear of reprisals or repercussions
 - iv. where a wide variety of groups of Aboriginal and Torres Strait Islander people, including women, young people, elders, and Aboriginal and Torres Strait Islander people with a disability can have their voice heard
 - v. where self-determination is supported, and Aboriginal and Torres Strait Islander lived experience is understood and respected
 - vi. where relevant funding for programs and services align with jointly agreed community priorities, noting governments retain responsibility for funding decisions
 - vii. where partnership parties have access to the same data and information, in an easily accessible format, on which any decisions are made.

ACCO's have shared with the Commissioner that there is a lack of partnership in practice, which as an identified and agreed upon implementation item, is of enormous concern. Further, when it does occur, it is insufficient (in both resourcing and service requirement) and is often taking place too late for meaningful change. The lack of general engagement between departmental and mainstream agencies when working with Aboriginal families is a frequent and long-term concern of ACCO's.

Compounding a lack of engagement with the service providers working directly alongside and providing representation for community, ACCO's also share concern that there is a lack of meaningful engagement with the Aboriginal community. As the knowledge holders with more than 60 000 years of experience in raising their children within a strong culture of supportive family, overlooking the experts in community is a shameful oversight.

Further to the experience and voices of community not being heard and considered in decision making, those who are impacted the most, the children, are rarely included in consultation. The expertise of those who have direct contact with the system that has been designed around them is too often ignored.

Proportionate funding to deliver culturally sound programs requires urgent redress. Of the total budget allocated to child protection in SA, 80% is spent on out of home care, 8.8% on family support services and 3.4% on Aboriginal Community Controlled organisations. These rates of spending are lower than most other Australian states and territories. Equally disappointing, SA has the highest rate of Aboriginal children on long-term guardianship orders, and the lowest rate of reunification for Aboriginal children nationally (Alexander, 2022). Given that Aboriginal children and young people make up more than 40% of those living in out of home care arrangements, 3.4% of an allocated budget grossly underfunds the work that is required to support this group.

The concept of self determination, which is universally acknowledged as an imperative best practice element must be better understood and allowed. The legislative definition must be revised.

These identified, agreed upon and instructional elements of partnership must be embedded in South Australian legislation.

Priority Reform 2 - Building the Community-Controlled Sector

Aboriginal and Torres Strait Islander community control is an act of self-determination, as stated under clause 44 in the Closing the Gap framework.

Strong community-controlled sector elements

The Parties agree that elements of a strong sector are where:

- a. there is sustained capacity building and investment in Aboriginal and Torres Strait Islander community-controlled organisations which deliver certain services and address issues through a set of clearly defined standards or requirements, such as an agreed model of care
- b. there is a dedicated and identified Aboriginal and Torres Strait Islander workforce (that complements a range of other professions and expertise) and where people working in community-controlled sectors have wage parity based on workforce modelling commensurate with need
- c. Aboriginal and Torres Strait Islander community-controlled organisations which deliver common services are supported by a Peak Body, governed by a majority Aboriginal and Torres Strait Islander Board, which has strong governance and policy development and influencing capacity
- d. Aboriginal and Torres Strait Islander community-controlled organisations which deliver common services have a dedicated, reliable and consistent funding model designed to suit the types of services required by communities, responsive to the needs of those receiving the services, and is developed in consultation with the relevant Peak body.

Clause 55 Government Parties agree to implement measures to increase the proportion of services delivered by Aboriginal and Torres Strait Islander organisations, particularly community-controlled organisations, including by:

- a. implementing funding prioritisation policies across all Closing the Gap outcomes that require decisions about the provision of services to Aboriginal and Torres Strait Islander people and communities to preference Aboriginal and Torres Strait Islander community-controlled organisations and other Aboriginal and Torres Strait Islander organisations
- b. where new funding initiatives are decided by governments which are intended to service the broader population across socio-economic outcome areas of the Agreement, that a meaningful proportion is allocated to Aboriginal and Torres Strait Islander organisations with relevant expertise, particularly community-controlled organisations. A meaningful proportion is an amount which takes into account the number and capacity of Aboriginal and Torres Strait Islander organisations, particularly the existing community-controlled sectors and the service demands of Aboriginal and Torres Strait Islander people, including through the views of Aboriginal and Torres Strait Islander community-controlled peaks organisations in the relevant jurisdiction.

Aboriginal Impact Statements should be included in all legislation that will affect Aboriginal peoples. The Aboriginal Community Controlled Sector has the right to have a true and accurate reflection of the impact, supporting self-determination principles by way of informed decision making.

Priority Reform 3 – Transforming Government Organisations

The current framework recognises the need for all of government, who currently determine the legislative landscape in Child Protection, to address the systemic inadequacies that have resulted in the current environment of inequity. The promise is that there will be a systemic and structural transformation of mainstream government organisations to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people.

Clause 59 itemises the transformational elements that will allow for these functions to take place;

- Identify and eliminate racism
- Embed and practice meaningful cultural safety
- Deliver services in partnership with Aboriginal and Torres Strait Islander organisations, communities and people
- Increase accountability through transparent funding allocations
- Support Aboriginal and Torres Strait Islander cultures
- Improve engagement with Aboriginal and Torres Strait Islander people

The entrenched racism within Australian government policy and in turn, the attitudes of staff promotes deficit focused practice which undermines the inherent strengths of so many families who find themselves failed by generations of decisions made on their behalf. Not all staff have adequate cultural knowledge to make the right decisions for the children in their care. Often the concept of “safety” is used with a blanket approach; with no consideration of culture being a strength and protective factor for children and their families.

Reform to the judicial processes surrounding the removal and placement of Aboriginal children must include the Contact Assessment Review Panel (CARP), the use of Independent Children’s Lawyers and the cultural needs of all family members.

ACCO’s have expressed concern around the way that children are being interviewed, particularly those who have English as a second language. A culturally appropriate Independent Children’s Lawyer must always be present in the representation of a child. Further, children and their families must always be fully informed and have access to interpreters and translators so that they can understand what is being asked of them, and understand the outcomes of decisions.

There must be an increase in accountability for decision making. These decisions include the funding of programs, transparency in reporting and genuine engagement and co-design of services. Internally, complaint mechanisms are not currently sufficient; a complaint body needs to be established externally as an independent complaints and investigative body. The Contact Assessment Review Panel (CARP) is likewise an internal mechanism, with only one independent voice amongst 5 or 6 DCP staff. Decisions concerning the transfer of guardianship of Aboriginal children, culture and connection are not emphasised elements of decision-making. Also lacking in accountability are complaints around CARP decisions; complaints are processed slowly and are often reviewed by non-Aboriginal workers with no Aboriginal representative and assessed based on Western theories and knowledge. Practice Leads should be external and have accountability mechanisms in place. Aboriginal Practice Leads should not be required to have western Social Work degrees but should be hired for their cultural expertise and knowledge.

Accountability must be increased in terms of data and information reporting and sharing, particularly with the Commissioner’s investigation and enquiry powers around data. Data must be transparent when considering children who have had their identification of Aboriginality, or even name and connection to family, taken from them. Equally, funding and spending by the Department should be independent and should not be susceptible to

influence from complaints, internally by staff or externally through the organisations being funded. Staff must be able to follow complaints mechanisms without fear of stifled professional development or progression, and ACCOs and NGOs must have mechanisms to escalate complaints and reports without fear of funding being cut.

Active efforts in wrap-around services must be taken. The impact of a system that has seen generations of families being separated and the resulting trauma has created the current crisis. Parents find themselves with the challenge of raising children with the expectation that they innately hold the skills required to care for their families despite never having experienced familial care themselves. Inaccessibility to support and education for families has created a system with a system a self-fulfilling business model. The Department for Human Services, who are responsible for providing strengthening wrap around services for families have let down those who need them most.

While steps have been taken to include the voices of Aboriginal people and organisations, the invitations to share expertise and experience often occurs too late in the consultation process. The participation of those who have the most valuable insights and generations of knowledge to best care for Aboriginal children and young people is not given the necessary time and consideration.

Substantive and culturally responsive changes to the child protection system for Aboriginal children in out of home care must be implemented. We call for serious accountability of the Department for Child Protection, the Department of Human Services and others aligned with this system.

Aboriginal and Torres Strait Islander Child Placement Principle

Traditionally, governments have primarily supported the placement element of child protection.⁵ However, the Aboriginal and Torres Strait Islander Child Placement Principle, (the ATSICPP) developed in the 1970s by a community movement and the Aboriginal and Islander Child Care Agencies in response to the removal of Aboriginal children (Fiona Arney, Marie Iannos, Alwin Chong, Stewart McDougall, Samantha Parkinson, 2015). The aims of the ATSICPP are the:

1. Recognition and protection of the rights of Aboriginal and Torres Strait Islander children, family members and communities in child welfare matters;
2. Self-determination for Aboriginal and Torres Strait Islander people in child welfare matters; and
3. Reduction in the disproportionate representation of Aboriginal and Torres Strait Islander children in the child protection system.

As reported by the Commissioner in 2021, *“there is no disaggregated data about what efforts have been made to comply with the placement hierarchy before an Aboriginal child is placed in non-Aboriginal care. Nor is there data about whether the consultation with Recognised Aboriginal Torres Strait Islander Organisation (RATSIO) about placement has taken place.”* We cannot continue to support an agency with little transparency in how decisions are made that will impact a child for their entire life.

These aims are supported by the ATSICPP which consists of the five core elements:

1. Prevention
2. Partnership

⁵ SNAICC (2018) “The Aboriginal and Torres Strait Islander Child Placement Principle: A guide to support implementation”, <https://www.snaicc.org.au/the-aboriginal-and-torres-strait-islander-child-placement-principle-a-guide-to-support-implementation/>

3. Placement
4. Participation
5. Connection⁶

South Australian ACCO's have reported that they receive limited referrals and support from government agencies, with intervention often only taking place when behaviours and risks have escalated beyond repair. This experience can best be described as 'too little, too late.'

The Placement Principle is currently legislated but is not 'embedded' as a framework in the South Australian Children and Young People (Safety) Act 2017. The principles are designed "to keep Aboriginal and Torres Strait Islander children safely connected to their families, communities and cultures." As it stands, the legislation currently offers a brief definition and suggestions for the implementation of the elements. As a guiding document, the natural consequence for insufficient detail is that the staff who have decision making powers are enacting outcomes that do not have the best interest of Aboriginal families at their heart. The full Principle must be legislated and enacted by all staff.

The Department for Child Protection have disclosed their commitment to implement the full Placement Principle as a principal framework for working with Aboriginal families following the Legislative Review in 2023. Additional cultural training and procedural reviews must take place across all government and NGO service providers to ensure genuine understanding of the impact of decisions.

Best practice of the Child Placement Principles can only be met when the corresponding actions for each element are supported⁷:

1. Prevention

- Investment in early intervention and family support services increases relative to tertiary child protection services over time
- Participation of families in early intervention supports is at least equivalent to their use of tertiary services
- High participation of families in ACCO-run early intervention supports, including family preservation and reunification services, with particular attention to ACCO design, delivery and evaluation of these services
- Diversion of families who receive supports from child protection intervention
- Reduced placement of children in OOHC
- Reduced rate of re-entry to the child protection system

2. Partnership

- Increasing coverage and capacity of ACCOs
- High rate and quality of ACCO participation, including in child protection decision-making, ACCO operated ATSIFLDM or similar and system/service design
- High rate and quality of ACCO participation, including in child protection decision-making, ACCO operated ATSIFLDM or similar and system/service design
- ACCO case management, including OOHC management for all children
- ACCO custody and guardianship for all in OOHC
- Aboriginal and Torres Strait Islander-led practice review of ATSICPP implementation

⁶ SNAICC (2019) "The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation", p.3, https://www.snaicc.org.au/wp-content/uploads/2019/06/928_SNAICC-ATSICPP-resource-June2019.pdf

⁷ SNAICC (2019) p.12

3. Placement

- Placement with high-priority placement options
- Placement with high-priority placement options maintained through kinship care supports
- Assessment of placement options conducted and exhausted in order of hierarchy
- Regular review of all lower-level placements and placing children in higher-level placements as soon as possible

4. Participation

- ATSIFLDM or similar is offered to all families at the earliest possible opportunity when concerns are identified
- Quality family decision-making processes (such as ATSIFLDM) producing plans that are owned and supported by family and community
- Family-based solutions to child protection issues reducing requirements for further child protection intervention
- All children and families have access to culturally appropriate legal representation

5. Connection

- Completion, quality, implementation (including support to carers), review and updating of cultural care plans for all children
- High rate of reconnection to family and community for children placed away
- High level of quality and safe contact with family
- High rate of safe and timely reunification
- No/low rate of permanent care orders (or similar) made in relation to children in placements disconnected from family, community, culture and country

The current suite of standards and assessments that are used to determine whether a child should be removed from their family has been designed under a western lens, and as such identifies Aboriginal culture as a risk factor as opposed to a protective strength. Often the recognition of a child as being Aboriginal signifies the start of a removal process for that child. We know that connection to culture is a strength, and that removal from parents should not mean that a child is removed from their family. Specific, co-designed assessment tools must be created with ACCO's, with the move towards ACCO's having complete decision-making authority for Aboriginal families.

Clarity is required as to the role of the Principle Aboriginal Consultants (PACs) in the Department for Child Protection. It is our understanding that they work alongside staff members and provide cultural training and advice. We need an equivalent role to represent children and families and to support transparency and accountability for decision making. Too often, families do not receive appropriate supports until they have reached a crisis point.

Priority Reform 4 - Shared Access to Data and Information at a Regional Level

The Commissioner has previously reported that *“South Australia has one of the highest rates of guardianship orders to age 18 in the nation, the lowest reunification rate and one the lowest levels of expenditure on early intervention services for Aboriginal children.”*

According to the Productivity Commission data that is used to monitor the implementation of Closing the Gap targets, South Australia only sits below Victoria as having the highest overrepresentation of Aboriginal children in out of home care. The past 3 years have shown a consistent increase. was 75.3 compared to 90.0 in 2021, and over the 3 years it has been increasing at a high rate. For non-Aboriginal children the rate of increase has been slight from 6.9 to 7.7 respectively.

In 2021, children aged 0-17 years in out-of-home care constituted 57.6 per 1000 Aboriginal and Torres Strait Islander people, while only 5.0 non-Indigenous children per 1000 people were found to be in out-of-home care. The supporting indicator 12b tells a similar story, as 2021 data further reveals that the percentage of Aboriginal and Torres Strait Islander children in out-of-home care now sits at 42.2%, an increase of 2.2 percentage points from 2019 to 2021. Strikingly, while Aboriginal and Torres Strait Islander children only comprise 6% of children in the general population, they constitute 42.2% of all children in out-of-home care.

The data that is currently made available to stakeholders, and the public is limited and often contradictory. We hope that the implementation of an independent peak body will enable thorough investigatory powers to determine the truth. Transparency of outcomes is required, as at present we do not know how many cases are presented in court and how many families do not attend hearings due to a lack of access or resources.

A 2019 study conducted by UniSA analysed long-term data within SA, linking de-identified child protection data with birth registry, perinatal statistics, deaths, hospital, schools and NAPLAN data.⁸ It found that in 2017-2018, only \$34.4 million was spent on intensive family support services for children still at risk, compared with \$425 million spent on children in out-of-home care.⁹ Additionally, only \$25 million was spent on community child and adolescent mental health, an important factor in families of at-risk children.¹⁰

The current system does not support Outcome 12, demonstrated by the growing numbers of Aboriginal children and young people in care – and although the overall numbers of children with guardianship orders are decreasing, the number of Aboriginal children being removed from their families is increasing.¹¹

Recommendations

1. As an element of government transformation and strengthening of ACCO's, transparency in data collection, distribution of funding and genuine co-design must be implemented.

⁸ UniSA (2019) "30 years of child protection data show more resources need to go to SA's at-risk families", University of South Australia, <https://unisa.edu.au/Media-Centre/Releases/2019/30-years-of-child-protection-data-show--more-resources-need-to-go-to-sas-at-risk-families/#:~:text=The%20first%20results%20from%20a%20study%20of%20South,about10%20times%20the%20rate%20identified%20in%20annual%20reporting>.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Productivity Commission (2022), <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report/snapshot#downloads>, DCP (2022) "DCP Annual Report 2021-2022", p.46-47, <https://www.childprotection.sa.gov.au/documents/report/annual-reports/DCP-annual-report-2021-22.pdf>

2. Existing contracts must be revised and aligned to the National and State agreements to ensure that they are reflective of strong partnership elements.
3. Proportionate funding for ACCO's
4. Specific Aboriginal roles within the Department for Child Protection who ensure that the voice of children and families are being heard, and can perform duties autonomously.
5. The partnership agreements, CtG framework and countless community consultations have provided solutions to challenges and barriers that have historically been supported by Government. Action must take place, and implementation of these recommendations completed.
6. The distribution of service delivery programs responsibility across government departments only serves to further confuse individuals, communities and service providers. The current environment results in information being lost due to the 'silo-ed' nature of departments. Strong partnership elements must be embedded.

We trust that this submission will offer some value to the Commissioner in undertaking this review, and welcome the opportunity to discuss any aspect in further detail.

Kind regards



Scott Wilson

Lead Convenor & CEO Aboriginal Drug & Alcohol Council

Adjunct Associate Professor and Co-Director Indigenous Health and Substance Use
Discipline of Addiction Medicine, Sydney Medical School, The University of Sydney

NHMRC Centre of Research Excellence: Indigenous Health and Alcohol

<http://gathering.edu.au>

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- ⁱⁱ South Australian Aboriginal Community Controlled Organisation Network & South Australian Government (2022) “Partnership Agreement on Closing the Gap”,
<https://www.agd.sa.gov.au/aboriginal-affairs-and-reconciliation/closing-the-gap/south-australian-partnership-agreement/Partnership-Agreement.pdf>
- ⁱⁱⁱ United Nations (2007) “United Nations Declaration on the Rights of Indigenous Peoples”,
https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf