



**SNAICC**  
National Voice for our Children

Royal Commission into the Protection and Detention of  
Children in the Northern Territory

Submission

February 2017

## About SNAICC

**SNAICC – National Voice for our Children** (Aboriginal and Torres Strait Islander Corporation) is the national non-governmental peak body for Aboriginal and Torres Strait Islander children.

SNAICC works for the fulfilment of the rights of our children, in particular to ensure their safety, development and well-being.

The SNAICC vision is an Australian society in which the rights of Aboriginal and Torres Strait Islander children, young people and families are protected; our communities are empowered to determine their own futures; and our cultural identity is valued.

SNAICC was formally established in 1981 and today represents a core membership of Aboriginal and Torres Strait Islander community-controlled organisations providing child and family welfare and early childhood education and care services.

SNAICC advocates for the rights and needs of Aboriginal and Torres Strait Islander children and families, and provides resources and training to support the capacity of communities and organisations working with our families.

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## Introduction

**SNAICC – National Voice for Our Children** (SNAICC) welcomes this opportunity to contribute to the Royal Commission into the Protection and Detention of Children in the Northern Territory. Recognising that the Royal Commission is continuing until August 2017, we provide this submission to inform its ongoing work with the intention of continued engagement throughout the year.

Over-representation of Aboriginal and Torres Strait Islander children in child protection systems across Australia has been recognised by former Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda as ‘one of the most pressing human rights challenges facing Australia today’,<sup>1</sup> and the Northern Territory child protection system is a key site where that challenge is not being met. In 2015-2016 in the Northern Territory, Aboriginal and Torres Strait Islander children were 7.3 times more likely to be the subject of substantiated notifications of harm than non-Indigenous children,<sup>2</sup> representing an approximate doubling in over-representation since 2006-2007 (the start of the relevant period of interest for this Royal Commission).<sup>3</sup> As at 30 June 2016, Aboriginal and Torres Strait Islander children in the Northern Territory were 11 times more likely to be in out-of-home care than non-Indigenous children,<sup>4</sup> over four times their over-representation in 2006-2007.<sup>5</sup> Aboriginal and Torres Strait Islander children make up 89.1 per cent of all children in out-of-home care in the Northern Territory.<sup>6</sup> These children are now less likely to be placed with an Aboriginal or Torres Strait Islander carer. As at 30 June 2016, only 36.2 per cent of Aboriginal and Torres Strait Islander children were placed with Aboriginal or Torres Strait Islander carers,<sup>7</sup> a reduction from 56 per cent at 30 June 2007,<sup>8</sup> and well below the current national average of 66.8 per cent.<sup>9</sup> These widening gaps are unacceptable.

In the Northern Territory, extreme levels of poverty and social inequity remain unaddressed and are driving child protection systems engagement and, in many cases, the subsequent engagement of children with the youth justice system. For the Northern Territory’s Aboriginal and Torres Strait Islander peoples, experiences of disadvantage are significantly connected to the inter-generational impacts of colonisation and discriminatory government policy, including the forced removal of children from their families. As was concluded by the 2010 Board of Inquiry into the Child Protection System in the Northern Territory:

The issue of child protection in the Northern Territory could be seen as one of inequity and of social injustice. The high rates of neglect and exposure to physical violence are, to a large extent, by-products of poverty and extreme disadvantage.<sup>10</sup>

That inquiry called for extensive new investment in universal and targeted prevention services to address the diverse and complex causes of child neglect and abuse.<sup>11</sup> Specifically, the Inquiry called for expenditure on support services to meet or exceed child protection expenditure within 5 years.<sup>12</sup> Five years later in 2015 investment in family support was only 23.5 per cent of total expenditure.<sup>13</sup>

In this context, while SNAICC welcomes the current Royal Commission into the Protection and Detention of Children in the Northern Territory as another opportunity for reflection and reform, we emphasise the need for the Federal and Northern Territory Governments to commit to the full implementation and independent oversight of all recommendations. After over 30 reviews, inquiries, and Royal Commissions into Australia’s child protection systems over the last 10 years, two previous inquiries into the Northern Territory system in 2007 and 2010, and almost 20 years after the release of the seminal ‘Bringing Them Home’ Report by the Australian Human Rights Commission, we are extremely saddened and appalled to be submitting to yet another inquiry in the Northern Territory in the wake of repeated government failures to implement much needed reform.

Strong and sustained political will is needed to address long-standing and recognised challenges to improve the safety and wellbeing of Aboriginal and Torres Strait Islander children in the Northern Territory. This is the time for genuine partnership between Aboriginal and Torres Strait Islander



communities and the Federal and Northern Territory Governments to address a Northern Territory child protection system that is in crisis.

While we recognise that the Northern Territory differs from other jurisdictions in terms of demography, geography and remoteness, amongst other characteristics, in this submission we make reference to best practice in other jurisdictions that could be learnt from and adapted to address the failings of the Northern Territory child protection system.

Our submission will not directly address whether the Northern Territory Department of Children and Families, now Territory Families, breached its duty of care to children in youth detention. We believe this requires legal and individual case knowledge and analysis beyond our core expertise. However, recognising deeply disturbing and alarming reports of the treatment of children and young people in detention, we encourage the Royal Commission's thorough investigation to determine and highlight the circumstances under which any breaches may have occurred.

## 1. Accountability for Reform

In SNAICC's submission to the Inquiry into the Child Protection System in the Northern Territory in 2010, we noted that despite the number of reports and reviews into the child protection system, it continues to fail children and their families, particularly Aboriginal and Torres Strait Islander children and families.<sup>14</sup> The 2010 Inquiry went on to recommend some important and significant reforms, however, there has been limited implementation of the Inquiry's recommendations and very limited accountability for implementation. While the Northern Territory Children's Commissioner recognised important progress to implement reforms in his Annual Report of 2012-2013, he also noted that 'in 2012, the incoming Northern Territory government announced that it would no longer be bound by the recommendations ... although it would be endorsing the majority of the commitments'.<sup>15</sup> The government then disbanded an expert group, that included the SNAICC CEO, overseeing implementation of the reforms. Since that time, no one has performed any direct monitoring function in relation to the 2010 Inquiry's recommendations and the over-representation of Aboriginal and Torres Strait Islander children in the child protection system has increased, while the rate of placement of removed Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers has reduced.

In this context, SNAICC asserts that mechanisms for accountability for reform should be central to the recommendations of the current Royal Commission. In line with the right to self-determination, the evidence of the effectiveness of Aboriginal and Torres Strait Islander-led responses,<sup>16</sup> and the high proportion of children in out-of-home care being Aboriginal and Torres Strait Islander children (89.1 per cent in the Northern Territory), it is critical that oversight is provided by Aboriginal and Torres Strait Islander entities and people.

In other jurisdictions, a range of Aboriginal and Torres Strait Islander led oversight mechanisms are demonstrating results and showing promise for embedding reform. For example, the Victorian Commissioner for Aboriginal Children and Young People, Andrew Jackomos, has provided a critical bridge between community and sector experience and government practice. He has worked closely with the Victorian Government to improve the cultural lens through which child protection policy and procedures are developed and implemented. He has also conducted independent investigations and highlighted systemic failures to implement the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP).<sup>17</sup> All of the recommendations arising from the Commissioner's investigation of the implementation of the ATSICPP that relate to the Victorian Department of Health and Human Services have been accepted 'in full, in principle, or in part'.<sup>18</sup> The Commissioner has also reviewed the case of every Aboriginal child in out-of-home care in Victoria, highlighting widespread systemic failings that are driving the over-representation of Aboriginal children in out-of-home care and offering



potential solutions.<sup>19</sup> Again, all of the resulting report's recommendations that relate to the Department of Health and Human Services have been accepted 'in full, in principle, or in part'.<sup>20</sup> More recently, the Queensland Government has appointed an Aboriginal person, Tammy Williams, to the role of Commissioner with the Queensland Family and Child Commission.

**Recommendation 1:** The Federal and Northern Territory Governments make a joint commitment to implement the Royal Commission's recommendations, providing a detailed strategy for implementation with processes, resources, timelines, and accountability mechanisms specified.

**Recommendation 2:** A body independent of government, headed by an Aboriginal person, be established with a direct oversight role for the implementation of the Royal Commission's recommendations for a period of at least 5 years.

**Recommendation 3:** The Northern Territory Government establish a Commissioner for Aboriginal and Torres Strait Islander Children and Young People with powers to conduct independent inquiries and to work with the government to promote and ensure the realisation of the human rights of Aboriginal and Torres Strait Islander children in the Northern Territory. Such a Commissioner could lead the oversight role specified in Recommendation 2 above.

## 2. Understanding and Valuing Culture

Connections to family, community, and culture for Aboriginal and Torres Strait Islander children are positive protective factors. This is evidenced by the enduring strength of Aboriginal and Torres Strait Islander child rearing practices in promoting healthy child development<sup>21</sup> and the critical importance of continuity of cultural identity to child wellbeing.<sup>22</sup> The Northern Territory child protection system has demonstrated significant failures to understand and value Aboriginal and Torres Strait Islander cultures and has severed children's important connections to family, community, and culture. This has played out through poor implementation of the Aboriginal and Torres Strait Islander Child Placement Principle and failures to enable the participation of Aboriginal and Torres Strait Islander families and communities in decisions about their children.

### 2(a) Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle

The Aboriginal and Torres Strait Islander Child Placement Principle (the Principle) was developed to ensure connections to family, community, and culture are maintained in the context of Australia's child protection systems. The Principle aims to recognise and protect the rights of Aboriginal and Torres Strait Islander children, families, and communities, ensuring self-determination in child protection matters, and reducing the disproportionate representation of Aboriginal and Torres Strait Islander children in child protection systems.<sup>23</sup> The five necessary elements of the Principle are:

1. **Prevention**, recognising the rights of Aboriginal and Torres Strait Islander children to be brought up within family and community;
2. **Partnership** with Aboriginal and Torres Strait Islander community representatives, including their participation in all decision-making;
3. **Placement** of Aboriginal and Torres Strait Islander children in out-of-home care (if necessary) prioritised in a hierarchy starting with Aboriginal or Torres Strait Islander kin;
4. **Participation** of Aboriginal and Torres Strait Islander families in decision-making about their children; and





5. **Connection** of Aboriginal and Torres Strait Islander children in out-of-home care with family, community, and culture.<sup>24</sup>

While each child protection jurisdiction in Australia has nominally adopted the Principle, there is still poor understanding, narrow conceptualisation, and inadequate commitment to its full implementation.<sup>25</sup> A significant limitation has been the narrow focus on the hierarchy for out-of-home care placement as constituting the entire Principle. This focus undermines the broader intent and holistic nature of the Principle and starts from an assumption of out-of-home care. It excludes the critical requirement to support family and community environments that keep children safe and does not encourage continued focus on the detailed processes required to identify and respond to cultural support and connection needs at all stages of interaction with child protection systems.

The Northern Territory child protection system is no exception. While section 12 of the *Care and Protection of Children Act 2007* (NT) (the Act) effectively sets out the placement hierarchy, there is little legislative emphasis on maintaining cultural connections, with the provisions relating to care plans not referencing culture or cultural needs. The Northern Territory Department of Child and Families' Standards of Professional Practice (as they then were – not yet updated to Territory Families) require that 'all care plans identify how a child's cultural needs will be met'<sup>26</sup> but do not detail any processes for proper identification of such cultural needs such as by consultation with, and participation of, family and Aboriginal and Torres Strait Islander organisations. The Act and Standards of Professional Practice contain only weak requirements for, and no specific enablers to the participation of Aboriginal and Torres Strait Islander organisations in decision-making, providing for participation only if nominated by the family.<sup>27</sup>

Even on a limited consideration of compliance with only the placement element of the Principle, the Northern Territory is failing. With only 36.2 per cent of Aboriginal and Torres Strait Islander children placed with kin and other Aboriginal and Torres Strait Islander carers at 30 June 2016, the Northern Territory has the worst rate of placement with kin and community in the country.

Such significant failings of compliance with the Principle in the Northern Territory suggest widespread lack of knowledge, understanding, and adequate processes for and commitment to, its implementation. However, it is difficult to determine the underlying causes of the failings given there is a lack of proper review of the implementation of the Principle. Unfortunately, at present, no body, including the Northern Territory Children's Commissioner, reviews the implementation of the Principle in the Northern Territory. The Northern Territory Commission's 2015-2016 annual report only briefly notes the low percentage of placement of children with Aboriginal and Torres Strait Islander carers.<sup>28</sup> The Northern Territory Department of Children and Families, as it then was, did not even report on child protection service statistics, such as out-of-home care placements, by Aboriginal and Torres Strait Islander status in its 2014-2015 Annual Report, and provides minimal analysis in its 2015-2016 Annual Report.

Consistent with broader Australian review of implementation failings, the likely factors for the Northern Territory's compliance failings include lack of Aboriginal and Torres Strait Islander participation in decision-making, poor identification and assessment of kinship carers, failures to enable capacity for Aboriginal and Torres Strait Islander community controlled organisations, and a shortage of available carers in the context of rising over-representation of Aboriginal and Torres Strait Islander children.<sup>29</sup>

A first step in the accountability process would be to review compliance with the Principle in order to understand the root causes of systems failings and progress targeted solutions. Limited review of implementation of the Principle has been undertaken across Australia with two jurisdictions undertaking more comprehensive review and showing very poor results. The former Queensland Commission for Children and Young People and Child Guardian completed two independent audits of the Principle, with its last audit of 2012-2013 showing that only 12.5 per cent of matters fully complied

with legislative requirements relating to the Principle.<sup>30</sup> The recent Victorian Commission for Children and Young People's Inquiry report into compliance with the intent of the Principle, released in October 2016, found that although there was strong policy and program compliance, there were no matters within the January 2013 to December 2014 period that achieved full practical compliance with the Principle.<sup>31</sup> This Victorian review provides recommendations for broad-ranging reforms that could increase compliance with the Principle and SNAICC recommends consideration of this report by the Royal Commission.

At the same time that a full review of the implementation of the Principle is being conducted, there are significant practical and immediate measures that can be undertaken to improve implementation and compliance in order to ensure that connections to family, community, and culture are effectively maintained. In the following sections of our submission, we suggest that genuinely sought and valued participation of families and Aboriginal and Torres Strait Islander community controlled organisations in processes and decision-making, and an increased focus on early intervention family support, would assist to promote compliance with the Principle, and therefore improve outcomes for children. In the interim, while such capacity and processes are established, stronger guidance for practitioners could also assist to improve knowledge and understanding of the Principle and enable short-term compliance improvements.

**Recommendation 4:** The Children's Commissioner, Northern Territory conduct an initial and then periodic review into the Northern Territory child protection system's legislative, policy, and practice compliance with the Aboriginal and Torres Strait Islander Child Placement Principle, with reference to the aims and elements of the Principle as described in this submission and reflected in the Third Action Plan for the National Framework for Protecting Australia's Children 2009-2020.

**Recommendation 5:** The Northern Territory Government develop and implement a detailed practice guidance and training program for child protection practitioners on full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle, drawing on the expertise of Aboriginal and Torres Strait Islander community controlled organisations and community members to inform content and delivery.

See also **recommendation 6** (participation of Aboriginal and Torres Strait Islander families), **recommendations 7 and 8** (participation of Aboriginal and Torres Strait Islander community controlled organisations) and **recommendations 16-19** (early intervention family support services).

### 3. Participation of Aboriginal and Torres Strait Islander Families and Community Controlled Organisations

International and Australian evidence has strongly supported the importance of Indigenous participation for positive outcomes in service delivery for Indigenous children and families. In the United States, studies indicate that the best outcomes in community well-being and development for Indigenous peoples are achieved where those peoples have control over their own lives and are empowered to respond to and address the problems facing their own communities.<sup>32</sup> Canadian and Australian research has shown links between Indigenous community control of service delivery and a range of improved health and wellbeing outcomes.<sup>33</sup>

Numerous reports and inquiries in Australia consistently confirm a lack of robust community governance and meaningful Aboriginal and Torres Strait Islander community participation as major contributors to past failures of Government policy and a call for the development of community-controlled children and family services.<sup>34</sup> A report of the Australian National Audit Office finds that building the role and capacity of Aboriginal and Torres Strait Islander organisations is not only





important for effective service delivery, but is an important policy objective in its own right in so far as it promotes local governance, leadership and economic participation, building social capital for Aboriginal and Torres Strait Islander peoples.<sup>35</sup>

In the context of a child protection system that is primarily servicing Aboriginal and Torres Strait Islander people, there is a marked lack of participation of both Aboriginal and Torres Strait Islander family members and community controlled organisations in the Northern Territory. This is not by the choice of families, communities, or organisations, but by exclusion by a system that does not encourage or mandate such participation, or build the requisite capacity to participate. This exclusion denies Aboriginal and Torres Strait Islander peoples their right of self-determination in relation to their own children, contributes to disempowerment of communities, leads to poor outcomes for children, and limits accountability.

### 3(a) Participation of Aboriginal and Torres Strait Islander Families

The Northern Territory child protection system offers Aboriginal and Torres Strait Islander families little real opportunity to participate in the making of decisions about their children. The *Care and Protection of Children Act 2007* (NT) is largely silent on the participation of families in the decision-making process. Territory Families' Standards of Professional Practice provide weak and qualified references to participation, setting out that adequate information is to be provided to allow for understanding and participation,<sup>36</sup> and 'where possible, and where safe to do so' parents and significant others are encouraged to participate.<sup>37</sup> While the Act does set out provisions relating to participation of family members through mediation, these provisions are largely inoperative. Section 49 of the Act sets out the process for family participation in Departmental decision-making, however, despite a promising trial in 2011-2012 in Alice Springs involving Aboriginal and Torres Strait Islander families,<sup>38</sup> the conferencing trial was discontinued and this type of conference is now not common practice in the Northern Territory. The section 127 court-ordered mediations also do not operate, but instead a case conference process has emerged at the later stages of the court process.<sup>39</sup> Case conferences can be ordered by the court in an effort to resolve child protection proceedings or narrow and detail the issues in dispute.<sup>40</sup> While parents and other family members who are parties to proceedings are expected to attend case conferences with their legal representatives, the operation of case conferences at the late stage of adversarial litigation limit the ability of family to effectively participate in all relevant and significant decisions about their children.

Models of Family Group Conferencing and Family-led Decision-Making originated in New Zealand, partly as a means to better attune child protection services to cultural practices in working with Maori communities by involving Indigenous family and community members in decision-making for their children.<sup>41</sup> Studies of family group conferencing have shown that plans generated tended to keep children at home or with their relatives, and that the approach reinforced children's connections to their family and community.<sup>42</sup> In Australia and internationally, the promise of culturally adapted models of family-led decision-making to engage and empower Aboriginal and Torres Strait Islander families and communities in child protection processes has been recognised,<sup>43</sup> but their development and implementation remains very limited. Only Victoria has implemented a state-wide, culturally specific model of Aboriginal Family-Led Decision-Making (AFLDM) delivered in partnership with Aboriginal agencies.

SNAICC recommends the Victorian model of AFLDM for consideration, adaptation, and use in the Northern Territory. In doing this we note that an independent review in 2016 by the Victorian Commission for Children and Young People found that while implementation challenges persist and meetings were only made available directly following a substantiation of harm in 23.4 per cent of cases, there was 'unanimous agreement that the AFLDM program is extremely valuable in making important decisions to keep a child safe, and maintain the child's cultural identity through connection to their community.'<sup>44</sup>

A trial drawing on the Victorian model of AFLDM is in progress in Queensland and a model of AFLDM has also been trialled in New South Wales. These trials have considered the application of AFLDM at earlier stages of child protections decision-making including in early intervention cases and at the early stages of responding to notified concerns. This approach aligns with research that has described the benefits of enabling a family decision-making process early,<sup>45</sup> including the increased likelihood that conferences will focus on resolving family issues utilising services or informal family and community supports to enable children to remain in the safe care of their families.<sup>46</sup> A number of studies of family group conferencing or family-led decision making have highlighted the more limited scope for empowering families where meetings take place later in child protection intervention and called for their application at earlier stages,<sup>47</sup> including the review of the promising trial with Aboriginal families in Alice Springs.<sup>48</sup>

**Recommendation 6:** The Northern Territory Government develop and implement a process of Aboriginal and Torres Strait Islander Family-Led Decision-Making applied early in the life of a case that comes to the attention of child protection authorities. The model should be delivered by or in partnership with Aboriginal and Torres Strait Islander agencies and facilitated by Aboriginal and Torres Strait Islander people. Appropriate alternative arrangements should be explored to ensure AFLDM can proceed while the capacity of Aboriginal agencies to lead this process is developed in particular locations.

### 3(b) Participation of Aboriginal and Torres Strait Islander Community Controlled Organisations

The lack of opportunity for Aboriginal and Torres Strait Islander families to participate in decision-making throughout the Northern Territory child protection system is compounded by the absence of Aboriginal and Torres Strait Islander community controlled child welfare organisations that would support these families to seek out, demand, and attend such opportunities. While some organisations such as the Ngaanyatjarra Pitjantjatjara Yankunytjatara Women's Council, Tangentyere Council, and Central Australian Aboriginal Congress continue to provide child welfare related functions, since the disbanding of Karu Aboriginal Child Care Agency in 2008 and Central Australian Aboriginal Child Care Agency before it in 2004, there has not been any Aboriginal and Torres Strait Islander community-controlled organisation (ACCO) dedicated to child welfare in the Northern Territory. SNAICC is concerned that 9 years after the 'Little Children are Sacred' report recommended supporting Aboriginal-controlled agencies to provide family support services in remote and urban locations,<sup>49</sup> only six such agencies are funded to provide targeted and/or intensive family support services located only in Alice Springs, Katherine and Tennant Creek.<sup>50</sup>

The absence of specific child welfare focused ACCOs in the Northern Territory also limits the opportunity for Territory Families to receive specialist cultural advice to inform its decision-making in the best interests of Aboriginal and Torres Strait Islander children. More than this, the absence means there is no effective participation of ACCOs as community representatives in decision-making. Already, the Northern Territory legislation is relatively weak in that it does not require advice, consultation, or participation of ACCOs in relation to the making of significant decisions,<sup>51</sup> or even placement decisions,<sup>52</sup> by the Department or by the judiciary in relation to Aboriginal and Torres Strait Islander children. While the Act provides that a 'representative organisation' nominated by the child's family 'should' be able to participate in decision-making,<sup>53</sup> there is no definition as to who is a representative organisation. To align with best practice and the rights of Aboriginal and Torres Strait Islander peoples, this weak legislative framework needs to be amended at the same time that child welfare focused Northern Territory ACCOs are re-established so that real and valuable participation can occur.



Local ACCOs also provide an opportunity for Aboriginal and Torres Strait Islander communities to co-design and deliver child protection services that are culturally safe and accessible. Partnering with community leaders and organisations in service design and delivery supports accountability to community needs and priorities. In a number of jurisdictions around Australia the progressive development of capacity and representative leadership for Aboriginal and Torres Strait Islander communities and their organisation is driving positive reform and can be drawn upon to inform the present inquiry. Relevant initiatives and reforms include:

- the New South Wales based Grandmothers Against Removals group has advocated for stronger relationships between child protection services and communities and agreed on a 'Guiding Principles' document with the Department of Families and Community Services. The Guiding Principles highlight the role of local communities and ACCOs in decision-making, inputting into child protection and out-of-home care service delivery, and ensuring compliance with various requirements including the Aboriginal and Torres Strait Islander Child Placement Principle and cultural care planning;<sup>54</sup>
- the Victorian Government has recently committed to the expansion and continuation of a program of delegating guardianship of Aboriginal children in out-of-home care to Aboriginal agencies. The first phase of this pilot, implemented by the Victorian Aboriginal Child Care Agency saw almost half of all children safely reunified with family, despite indications that they were on a pathway to long-term out-of-home care;<sup>55</sup>
- the New South Wales Government has committed to a staged process to develop the capacity of ACCOs and transfer case management of all Aboriginal and Torres Strait Islander children in out-of-home care to ACCOs over a 10 year period.<sup>56</sup> This has been supported through direct capacity building support from the state peak body AbSec for existing organisations to become accredited out-of-home care providers, and through a partnership approach where established agencies work with Aboriginal and Torres Strait Islander communities to support their capacity and handover control and service delivery responsibility over time;
- the Victorian Government has also committed to the transfer of placement and case management of Aboriginal children to ACCOs and is developing a strategy, including capacity building, for this purpose;<sup>57</sup> and
- the Queensland Government has committed to the development of a broad range of initiatives to increase and enhance the role of ACCOs in Queensland in response to a 2013 inquiry that identified major deficiencies in their participation.<sup>58</sup> The initiatives include development of Aboriginal and Torres Strait Islander Child and Family Wellbeing Services to provide culturally tailored and holistic responses to child and family needs; resourcing the state peak body, QATSICPP to provide capacity building supports for ACCOs and participate in service reform leadership; and re-scoping the role for 'Recognised Entities' to improve family and community participation in child protection decision-making.

While no such similar initiatives are being progressed in the Northern Territory, SNAICC has recently worked with Northern Territory non-government agencies in the development of **a sector proposal and strategy for building an Aboriginal community controlled child and family welfare service sector in the Northern Territory**. The strategy, agreed to by community sector participants in July 2016, is being led by a steering committee made up of representatives of community based organisations from across the Northern Territory, relevant Northern Territory peak organisations and SNAICC. The strategy recognises that a collective process is needed to develop an Aboriginal-led service system in the Northern Territory and that there is already significant existing knowledge, expertise and experience to drive the strategy within the Aboriginal child, family and health sectors.

Reflecting the strategy developed by the sector, SNAICC calls for an Aboriginal sector development process to be established in the Northern Territory with elements including:

- **Regional focus:** The strategy should have Top End and Central Australian regional hubs from which roll out is managed. This is proposed given the size, isolation and remoteness of the Northern Territory, as well as the reality that Central Australia crosses over three state borders – the Northern Territory, South Australia and Western Australia – requiring a specific and nuanced approach for each of these regions. Each hub would develop close relationships with and support the participation of each region of the Northern Territory and a service approach best suited to their needs. This will also ensure the voice and leadership of communities is informing their service needs and driving responses;
- **Aboriginal leadership:** The strategy should be managed and led by an Aboriginal steering committee, including key existing Aboriginal sector service providers, Aboriginal Peak Organisations Northern Territory (APO NT) and SNAICC. Drawing on the existing capacity and strength of Aboriginal and Torres Strait Islander peak organisations such as APONT and SNAICC to support and facilitate the process would ensure minimal infrastructure set up costs, keeping the focus on support for Aboriginal service provision to children in need on the ground across the Territory; and
- **Sector development approach:** The strategy would focus on sector development and support hubs to equip local Aboriginal services with the skills and expertise required to operate effective, efficient and responsive services across the out-of-home care spectrum for Aboriginal children and families. In locations where there is not current capacity or potential for short term capacity development, the strategy would explore the potential of genuine partnerships with mainstream services, learning from the New South Wales model, to develop capacity overtime and hand back full responsibility for service provision to the local community. The strategy would explore a mixed approach of Aboriginal services, Aboriginal services partnering with Aboriginal or mainstream services, and mainstream services supporting start up of local Aboriginal organisations over time. It would also develop a timeline and measured plan for the set up of Aboriginal-led and managed out-of-home care services in the Northern Territory. To be sustainable this would take time. The regional project offices or 'hubs' would work closely with the government and support a realistic, time limited plan for take up of service development and delivery by Aboriginal services.

In addition to building capacity for Aboriginal and Torres Strait Islander service leadership there is also a need for a peak body for Northern Territory Aboriginal and Torres Strait Islander children to be developed over time. Peak bodies are vital to represent Aboriginal and Torres Strait Islander communities and organisations in policy development and service design, to promote best practice, and to support accountability of government to Aboriginal and Torres Strait Islander communities. On the recommendation of the 2010 Child Protection Inquiry, Strong Aboriginal Families, Together (SAF, T) was established as a Northern Territory peak organisation for Aboriginal children, youth, and families.<sup>59</sup> SAF, T was incorporated in February 2012 and worked to develop a preventative model to support sustainable long term change for Aboriginal and Torres Strait Islander children to grow up safe and cared for in family and culture.<sup>60</sup> However, in late 2013, SAF,T was defunded by the Northern Territory government. SNAICC acknowledges that there have been a variety of challenges associated with the establishment of a peak body in the Northern Territory and supports current community sector proposals for the development of ACCOs as a critical first step, with peak representation as a longer-term goal.

Lastly, we note that the re-establishment of Northern Territory ACCOs must be resourced in line with the proportion of Aboriginal and Torres Strait Islander children in the Northern Territory child protection system. The recent Victorian Commission for Children and Young People's inquiry report into compliance with the intent of the Aboriginal and Torres Strait Islander Child Placement Principle



emphasised the importance of this aligned resourcing, particularly in relation to achieving practice compliance with legislation and policy.<sup>61</sup> Without adequate resourcing, any Northern Territory ACCO service sector would be at risk of having only a limited participatory role and limited effectiveness.

**Recommendation 7:** Support to be provided for the re-establishment of regional Aboriginal community controlled child welfare organisations through a long-term plan and resourcing to build capacity. This plan should be based on the current proposal and strategy developed by relevant sector organisations as referenced in this submission and build on existing capacity in the Aboriginal community-controlled community services and health sectors.

**Recommendation 8:** Legislation and practice instructions be amended to require the participation of representative Aboriginal community controlled organisations in all significant decisions for children in contact with child protection services, and that these requirements be phased in to begin immediately where there is existing capacity, and expanded alongside the development of the ACCO sector in the Northern Territory.

## 4. Cultural Care and Reunification

The importance of connections to family, community, and culture for Aboriginal and Torres Strait Islander children cannot be overstated. Canadian research has linked the individual wellbeing of young people to the cultural continuity of their communities.<sup>62</sup> Similarly in the Australian context, the connections between culture, identity, and wellbeing are so strong that disruptions to cultural practices and systems damage, sometimes irrevocably, individual identity and health.<sup>63</sup> Accordingly, kinship care, with its strong potential for maintaining family, community, and cultural ties, and also cultural and family continuity for communities,<sup>64</sup> is the first placement preference if out-of-home care is necessary, as set out in the Aboriginal and Torres Strait Islander Child Placement Principle (see above). Where strong Aboriginal or Torres Strait Islander kinship care is not possible, effective cultural care is vital in ensuring connections for children in out-of-home care. It is important to remember, however, that these systems of statutorily regulated kinship care and cultural care should not impede the priority for safe reunification.

In order to address our concerns about cultural care and reunification of Aboriginal and Torres Strait Islander children in the Northern Territory, we refer to the enabling recommendations above, particularly **recommendations 5 to 8** and make further specific recommendations below.

### 4(a) Increasing and Supporting Kinship Care

Even though Aboriginal and Torres Strait Islander people tend to be more likely than non-Indigenous people to become carers, for example in Queensland, five times more likely,<sup>65</sup> the increase in the number of Aboriginal and Torres Strait Islander children being placed in out-of-home care requires a requisite increase in the number of Aboriginal and Torres Strait Islander kinship carers. Given that only 30.1 per cent of Aboriginal and Torres Strait Islander children were placed with Aboriginal and Torres Strait Islander kin in the Northern Territory as at 30 June 2016,<sup>66</sup> measures to better identify, recruit, assess, and support kinship carers are clearly needed to improve cultural care for Aboriginal and Torres Strait Islander children.

The cultural knowledge of Aboriginal and Torres Strait Islander people is critical to increase the availability of safe and culturally strong kinship care placements. ACCOs are needed not only to identify kinship care placements, but also to address the reluctance of potential carers to engage with child protection authorities that were centrally involved in creating, and still associated with, the Stolen Generations. Australian research has found that ACCOs and their Aboriginal and Torres Strait





Islander staff, rather than Departmental staff, are often most effective at recruiting Aboriginal and Torres Strait Islander kinship carers.<sup>67</sup> Research has also highlighted that kinship carer recruitment is further restricted by a lack of training and guidelines to support it and a lack of culturally appropriate carer assessment tools and processes.<sup>68</sup> The Winangay Aboriginal Kinship Assessment Tool has been identified as an example of a promising ACCO-developed strengths based kinship care assessment approach that identifies and addresses perceived risks, such as inadequate support, in a way that could increase the number of safe, culturally strong, and viable kinship carers.<sup>69</sup>

Continued culturally safe support for kinship carers by ACCOs is needed in a context where Aboriginal and Torres Strait Islander families are often caring for multiple children while experiencing poverty and multiple stress factors.<sup>70</sup> This continued support is needed to redress support gaps that exist when kinship care is viewed and treated as a cost-saving measure by governments, with little or no training for kinship carers, perfunctory assessments, and commonly absent ongoing case planning and Departmental caseworker support.<sup>71</sup>

**Recommendation 9:** The Northern Territory Government develop a program of culturally appropriate kinship carer identification, recruitment, assessment and support. Where possible this program should be delivered by ACCOs or transferred over time in line with their capacity development. In particular, the program should also seek to drive increased use of kinship care through processes of family-led decision making (see **recommendation 6**).

#### 4(b) Providing Cultural Care for Children in Out-of-Home Care

As described above, the Northern Territory child protection system in its legislation, policy, and practice documents, does not provide sufficient guidance on the development, implementation, and monitoring of care plans that address the cultural needs of Aboriginal and Torres Strait Islander children. This is a particular concern for the 69.9 per cent of Northern Territory Aboriginal and Torres Strait Islander children in out-home-care who were living outside of kinship care, and 63.8 per cent living with a non-Indigenous carer as at 30 June 2016.<sup>72</sup> For these children, family, community, and cultural connections are at significant risk.

In order to ensure appropriate and effective cultural care for Aboriginal and Torres Strait Islander children in out-of-home care, SNAICC calls for changes that will see cultural support plans adopted as:

- a separate component of care plans;
- a requirement for all Aboriginal and Torres Strait Islander children in out-of-home care;
- developed and reviewed with the participation of families and ACCOs;
- reviewed regularly for quality and implementation; and
- properly supported with sufficient resourcing.

We note that other jurisdictions have so far struggled to implement similar requirements in relation to cultural support plans. In Victoria, the Commission for Children and Young People found minimal compliance with legislative requirements to complete a cultural support plan or case plan that considers opportunities for continuing contact with Aboriginal family, community, and culture.<sup>73</sup> Similarly in Queensland, the 'Carmody Report' described significant shortfalls in the completion, quality, and implementation of cultural support plans for Aboriginal and Torres Strait Islander children.<sup>74</sup> Positively, in Victoria, the state government has provided significant investment to enhance the quality of cultural support plans through an approach led by ACCOs,<sup>75</sup> responding to the recognised potential that ACCOs are more likely than mainstream agencies or government to ensure connections to family, community, and culture are maintained.<sup>76</sup> We also note the policy initiative in New South Wales that requires a cultural plan for all Aboriginal and Torres Strait Islander children in



out-of-home care, specifying a minimum number of consultations in the development of such plans, and requiring a minimum number of cultural activities to be specified within a plan.<sup>77</sup>

**Recommendation 10:** That requirements be introduced in legislation and policy for the completion, implementation and review of cultural support plans for all Aboriginal and Torres Strait Islander children in out-of-home care in the Northern Territory. Where possible, Northern Territory ACCOs should have a resourced role to support the development of cultural support plans and this role should increase over time in line with the development of ACCO capacity across the Northern Territory.

#### 4(c) Supporting Safe Reunification

The timely and safe reunification of Aboriginal and Torres Strait Islander children in out-of-home care with their families is the best way to ensure their cultural care, as well as their safety, well-being, and long term life outcomes. There needs to be a real prioritisation of safe reunification and adequate support to achieve this.

The Northern Territory Department of Children and Families' (now Territory Families) Standards of Professional Practice, referencing the Department's Care and Protection Policy and Procedures Manual which does not appear to be publicly accessible, state that 'when a child enters care, prompt assessments are made to determine the appropriateness of reunification with their family. This assessment is reviewed regularly and reunification occurs expeditiously when it is safe to do so'.<sup>78</sup> This is a laudable commitment, however unfortunately, there is no data available to confirm that timely, safe, and effective reunification is being pursued and/or actually occurring. Currently, across all jurisdictions, there is no publicly available data to describe the rate at which Aboriginal and Torres Strait Islander children are reunified with their families, and the length of time they spend in out-of-home care before reunification occurs. Data from the most recent Report on Government Services include the number of children exiting out-of-home care and length of time prior to exit during a financial year by Indigenous status. However, the data is not disaggregated by child age and exit type, therefore children exiting care do not necessarily represent children reunified.<sup>79</sup> The Productivity Commission recognises this data gap, identifying 'safe return home' as an indicator to be developed for future reporting.<sup>80</sup>

Even without current data on the rates of reunification, the Northern Territory would benefit from stronger and clearer processes to guide and monitor attempts at reunification. A further commitment to the development and implementation of reunification guidelines specific to Aboriginal and Torres Strait Islander children in out-of-home care, as recommended by the Victorian Commission for Children and Young People,<sup>81</sup> would more actively prioritise reunification and provide accountable processes for the pursuit of safe reunification. Such a change is in line with the Northern Territory Department's stated priorities in its Strategic Plan 2015-2017 that include reviewing and revising policies and procedures 'to promote a focus on timely and active reunification within a specified timeframe'.<sup>82</sup>

Safe reunification for Aboriginal and Torres Strait Islander children requires resourced, accessible, and culturally safe family support services that can assist to address the circumstances that lead to children being removed. In particular, intensive and targeted family support services that recognise and address intergenerational trauma, including the impacts of past child removals are needed. We recognise Territory Families' stated commitment to providing intensive family reunification services<sup>83</sup> and restructuring to include a specialist reunification team.<sup>84</sup> However, we call for this focus to be directed more at culturally safe services designed and delivered by ACCOs for Aboriginal and Torres Strait Islander families.

Safe reunification also requires a holistic approach that recognises the practical and multiple barriers to reunification. An integrated service delivery approach is critical to strengthening families and

addressing issues that they face. The lack of service availability and delay in service provision for families can limit timely and safe reunification. This may include delay in the form of waiting lists for critical services including housing, drug and alcohol counselling, mental health services, and family violence counselling.

We highlight housing as a critical service and right that is required for safe reunification. The Northern Territory has the highest rate of homelessness in Australia according to 2011 Census data.<sup>85</sup> Data from this time suggests that 37.5 per cent of all Aboriginal and Torres Strait Islander households in the Northern Territory were overcrowded, or that 65.5 per cent of Aboriginal and Torres Strait Islander people in the Northern Territory lived in overcrowded households.<sup>86</sup> The 2012 – first and only – report on Northern Territory remote services found that overcrowding is linked to poor early childhood development and educational outcomes, domestic violence, child neglect and failure to thrive, ear disease and hearing damage and trachoma.<sup>87</sup> The report cited estimates in 2003 and 2007 that suggested more than 7,000 dwellings were required to meet remote housing needs by 2021, also commenting that ‘evidence of gross overcrowding is commonplace; it is rife in town camps and is not limited to regional and remote towns and communities’.<sup>88</sup> Despite these forecasts, as at 2016, the Department of Housing stated that 3,448 households were still on the waiting list for social housing. It is unclear whether this figure applies to both urban and remote applicants.<sup>89</sup> In any case, the Department of Housing currently lists public housing wait lists as at 31 March 2015 for a 3 bedroom house as 74 months in Darwin, 70 months in Alice Springs, and 141 months in Nhulunbuy.<sup>90</sup> The wait times for other sized properties in these and other main regional areas are similarly lengthy. There are no published listed waiting times for remote Northern Territory communities. The listed wait times are in themselves unacceptable, and when linked with housing issues often being identified a prerequisite for safe reunification of children with their families, they contribute enormously to the separation of children from family and community.

A further issue that compounds the lack of public housing and the extended wait times for public housing is the lack of specifically funded services to assist homeless people in remote Northern Territory communities. In its submission to the Department of Housing, the North Australian Aboriginal Justice Agency made this point, noting an urgent need for such services including emergency and crisis accommodation, storage and cooking facilities, and casework support services.<sup>91</sup>

In relation to other critical services, we note the acknowledgment by the former Northern Territory Government that only ‘a limited number of parenting skills programs are available in the Northern Territory for perpetrators and victimised caregivers’.<sup>92</sup> This is alarming given the prevalence of family violence and the increased likelihood that Aboriginal and Torres Strait Islander women in the Northern Territory are victims of such violence – 22 times more likely than non-Indigenous women. Briefly, in relation to drug and alcohol services – counselling and rehabilitation – we understand from previous APO NT submissions that an increased number of rehabilitation services is necessary to work together with banning orders and mandatory treatment to effectively help people overcome their dependency on alcohol.<sup>93</sup>

In this context, we call for support for families in accessing vital services and an approach that continues to pursue reunification where families are facing lengthy waits for supports and services. While we support timely and safe reunification, we do not wish to see families losing opportunities at reunification because of delays that are no fault of their own.

**Recommendation 11:** That requirements be introduced in legislation and policy for the prioritisation and pursuit of timely and safe reunification where possible, including by the provision of Aboriginal and Torres Strait Islander family reunification programs and services, increasingly designed and delivered by ACCOs as their capacity builds.

**Recommendation 12:** The Northern Territory Government address lack of services and service delays, particularly for services that address key drivers of child protection intervention including housing, drug and alcohol, mental health, and family violence.

## 5. Stability, Permanency, and Permanent Care Orders

Since 1 July 2015, the *Care and Protection of Children Act 2007* (NT) has provided for a regime of permanent care orders in the Northern Territory. **Parliamentary Privilege**

This understanding of stability, permanency, and wellbeing, based on quickly establishing an enduring attachment to one carer<sup>95</sup> is fundamentally at odds with Aboriginal and Torres Strait Islander concepts of permanency in which children are part of system of care with different kinship relationships.<sup>96</sup> So instead, permanency for Aboriginal and Torres Strait Islander children comes from a broader communal sense of belonging, a stable sense of identity, where they are from,<sup>97</sup> and their place in relation to family, mob, community, land, and culture.<sup>98</sup> As already set out above, identity and connections to family, community, and culture are closely tied with the health and well-being of Aboriginal and Torres Strait Islander children, now and in their future. In light of these diverging concepts of permanency and given the importance of identity and connections, SNAICC is concerned that permanent care orders will permanently separate Aboriginal and Torres Strait Islander children in a way that will likely cause more harm to these children and exacerbate intergenerational harm to families and communities.

**Parliamentary Privilege**

Despite this, no new legislative provisions were introduced to specifically address the making of permanent care orders for Aboriginal and Torres Strait Islander children. **Parliamentary Privilege**

As already discussed in the sections above, Northern Territory legislation, policy, and practice currently fail to properly implement the Aboriginal and Torres Strait Islander Child Placement Principle and so would also fail in safeguarding Aboriginal and Torres Strait Islander children from inappropriate permanent care orders.

The Northern Territory is the only jurisdiction to not place any restrictions on the making of permanent care orders beyond the general pre-requisites and principles in the relevant Act. The Northern Territory regime lacks safeguards commonly present in other jurisdictions, such as provision for parental contact, parental rights to apply for revocation of an order, and restrictions on permanent placements for Aboriginal and Torres Strait Islander children in non-Indigenous care.<sup>101</sup> This situation is completely untenable given the significant risk that Aboriginal and Torres Strait Islander children will be permanently separated from their family, community, and culture by permanent care orders. There need to be specific safeguards to protect and promote these connections.

In this legislative context and at this point in time, without effective early intervention supports strengthening families to prevent out-of-home care placement (see section 6 below), strong prioritisation and support for timely and safe reunification, strong cultural care provisions, a proper understanding and implementation of the Aboriginal and Torres Strait Islander Child Placement Principle, and Aboriginal and Torres Strait Islander family and ACCO participation in decision-making, SNAICC believes that the making of any permanent care order in relation to any Aboriginal or Torres Strait Islander child would be far too likely to permanently and harmfully separate them from their

family, community, and culture. As such, SNAICC calls for an immediate moratorium on the making of permanent care orders in relation to Aboriginal and Torres Strait Islander children in the Northern Territory until these issues are addressed.

Further, specific legislative safeguards need to be introduced into Northern Territory legislation. We suggest consideration of:

- a restriction on the making of permanent care orders in relation to Aboriginal and Torres Strait Islander children unless the child's family has been provided with adequate supports to promote safe family reunification;
- restrictions on the making of permanent care orders placing Aboriginal and Torres Strait Islander children in the care of a non-Indigenous person, including that the court must first be satisfied that:
  - the child's family has been provided with adequate supports to promote safe family reunification;
  - there is no suitable placement available with an Aboriginal or Torres Strait Islander person, preferably Aboriginal or Torres Strait Islander kin;
  - the placement accords with the Aboriginal and Torres Strait Islander Child Placement Principle (as set out above);
  - a cultural support plan has been prepared for the child in partnership and with the endorsement of an ACCO; and
  - the order is recommended by a representative organisation such as an ACCO;<sup>102</sup>
- allowance for conditions for contact with family members to be attached to orders, and that there be no upper limit to the number of contact visits; and
- allowance for parental rights to apply for revocation of a permanent care order.

#### Parliamentary Privilege

The Northern Territory's Children's Commissioner notes the Department's advice that only a one-off payment of \$5,000 will be provided on the making of a permanent care order.<sup>104</sup> Unlike New South Wales and Victoria, the Northern Territory will not provide any ongoing financial assistance to permanent carers.<sup>105</sup> The lack of ongoing financial assistance risks continued family, community, and cultural connections as permanent carers may not be able to facilitate travel to remote and other areas to maintain these connections. The lack of ongoing financial assistance is also a concern for Aboriginal and Torres Strait Islander kinship carers. If permanent care orders are utilised to further reduce the financial supports available to kinship and foster carers, this will negatively impact children and the communities that are already extending their resources to care for them.

Although as at 30 June 2016, no permanent care orders have been made in the Northern Territory,<sup>106</sup> SNAICC remains concerned about the potential effects of the orders as currently designed and urges immediate reform.

**Recommendation 13:** An immediate moratorium on the making of permanent care orders in relation to Aboriginal and Torres Strait Islander children be imposed while appropriate reforms to permanency legislation and policy are implemented (see **recommendation 14**).

**Recommendation 14:** Legislation and policy be immediately amended to include safeguards limiting the circumstances in which a permanent care order can be made in relation to an Aboriginal or Torres Strait Islander child and providing for the maintenance of their safe connections to family, community and culture. To inform the design of an appropriate legislative and policy regime, SNAICC encourages reference to the paper: SNAICC (2016) *Achieving Stability for Aboriginal and Torres Strait Islander Children in Out-of-Home Care*.



**Recommendation 15:** Adequate and ongoing financial assistance and service support be provided to carers who are caring for a child subject to a permanent care order.

## 6. Prevention and Early Intervention Family Support Services

Evidence clearly shows that interventions will be more effective the earlier they are applied to address issues that may otherwise worsen, compound, and increase the risk of harm to children over time.<sup>107</sup> Further, it is clear that investment to support and strengthen families provides long-term social and economic benefits by interrupting trajectories that lead to health problems, criminalisation, and child protection intervention.<sup>108</sup> Early intervention services are particularly important and effective when delivered as holistic and culturally safe services that address systemic problems that can put Aboriginal and Torres Strait Islander children at risk. In 2014-2015 in the Northern Territory, 45.9 per cent of all substantiated notifications for Aboriginal and Torres Strait Islander children recorded neglect as the type of substantiated harm.<sup>109</sup> This indicates that many Aboriginal and Torres Strait Islander families do not have the resources and supports needed to grow their kids up strong. In many cases, poverty may reduce a caregiver's ability to provide for a child's basic necessities, putting families at risk of child protection involvement.<sup>110</sup> Neglect is tied to community, societal, and professional action and inaction,<sup>111</sup> and so a focus on family support can be a sustainable way to contribute to breaking the cycle of poverty and neglect.<sup>112</sup> For Aboriginal and Torres Strait Islander families, early intervention family supports are not only critical to an effective response, but are a moral obligation of our society to support healing of the damage caused by discriminatory government policies and prevent the further breakdown of families and communities still very much impacted by the experiences of the Stolen Generations.

The over-representation of Aboriginal and Torres Strait Islander children in the Northern Territory child protection system represents a failure to focus on and invest adequately in preventative measures to keep children out of the child protection system, including the lack of available and accessible early intervention family support services. The Productivity Commission in its Report on Government Services reported that in 2015-2016, the Northern Territory invested approximately \$41.5 million in family support services and intensive family support services, while spending a total of \$184.6 million on the entire statutory child protection system.<sup>113</sup> The investment in family support services has dramatically increased from about \$2.5 million in 2011-2012 (when relevant data is available), in line with recommendations of the 2010 inquiry for 'very significant and sustained new investment in ... prevention [and other services]'.<sup>114</sup> However, now the proportion of investment in family support services still only represents approximately 22 per cent of total expenditure on child protection services in the Northern Territory – well below the more than 50 per cent called for in recommendations of the 2010 Board of Inquiry report. Northern Territory legal services and peak organisations remain concerned about what they describe as a chronic lack of family support services that are available to assist children and families in need and SNAICC encourages further investigations by the Royal Commission to establish the extent to which the current investment is adequate and being utilised to provide direct support to families.

Targeted family services for families experiencing vulnerabilities, particularly ACCO operated intensive family support services assist to address access barriers and provide culturally safe and strong supports for families.<sup>115</sup> As well as targeted responses, universal services such as early childhood education and care, and maternal health are essential to alleviating and addressing family problems that may put children at risk of harm. However, such universal services are significantly under-utilised by Aboriginal and Torres Strait Islander people.<sup>116</sup> While tailoring universal services to meet the unique needs of Aboriginal and Torres Strait Islander people to address these access barriers is important,<sup>117</sup> specialist Aboriginal and Torres Strait Islander services are even more critical as they overcome the significant access barriers of mainstream services.<sup>118</sup>





## 6(a) Early Childhood Education and Care

Engagement in early childhood education and care is critical to support better outcomes for Aboriginal and Torres Strait Islander children. Early childhood education and care services support children's early development and can provide a universal access point to link families with young children to other key support services that can prevent child protection intervention. They also provide an essential educational grounding and preparation to ensure children's readiness to participate in formal schooling.

Currently, Aboriginal and Torres Strait Islander Children are twice as likely to be developmentally vulnerable early in life,<sup>119</sup> and only half as likely to access early education as non-Indigenous children.<sup>120</sup> The Productivity Commission has identified a 15,000 place gap in early learning places for Aboriginal and Torres Strait Islander children.<sup>121</sup> In the Northern Territory in 2015, Aboriginal and Torres Strait Islander children had about an 80 per cent lower chance of attending a child-care benefit approved childcare service than non-Indigenous children.<sup>122</sup> According to the Australian Early Development Census of 2015, Northern Territory children were more likely to be vulnerable in every category of measurement – physical, social, emotional, language, and communication – against national rates.<sup>123</sup>

The report on remote services in the Northern Territory estimated that the Northern Territory at that stage had approximately 8,000 Aboriginal children aged 0-5 years of age and that this was projected to grow rapidly in coming years. The report found that 'many Aboriginal children miss out on high quality early childhood services even though they stand to benefit the most. Aboriginal children living in regional and remote centres across the Northern Territory have significantly lower participation rates in quality child care and early childhood education than other Territory children'.<sup>124</sup>

The lack of culturally safe and accessible early childhood education and care is a further concern. The 2012 report on remote services in the Northern Territory found that 'many remote communities do not have access to culturally relevant parenting programs that are proven to be effective in improving a child's development'.<sup>125</sup>

Aboriginal and Torres Strait Islander early childhood education and care services operating in many parts of the country are driven by the dedication and commitment of community members who want a better future for their children. Evidence supports Aboriginal and Torres Strait Islander early childhood education and care services as the most successful organisations in engaging with Aboriginal and Torres Strait Islander children because:

- they actively support vulnerable children who are not accessing other services – particularly due to the discrimination families experience in mainstream services;
- they engage with the most vulnerable and isolated families in the community and are a key entry point for vulnerable families to engage with a broad range of support services that can enhance the safety and wellbeing of children; and
- they support parents who may be experiencing long-term or entrenched unemployment to access support in their transition into the workforce and provide an incentive to transition into the workforce. They often offer culturally safe options for training and a stepping stone into paid local work, some being among the larger employers in their communities.

A strong initiative of Aboriginal and Torres Strait Islander Children and Family Centres (ACFCs), designed to provide integrated early years focused supports to families commenced roll-out in 2011 but was discontinued as a federal government program in July 2014. This occurred despite research demonstrating that integrated support services provided early in life have the greatest impacts for vulnerable families, providing long-term well-being, productivity and cost benefits for society. The





ACFCs in the Northern Territory, now referred to as 'Child and Family Centres' are managed by the Northern Territory Department of Education.<sup>126</sup> There are currently six Child and Family Centres located on school sites in Yuendumu, Maningrida, Gunbalanya, Ngukurr, Palmerston, and Larapinta.<sup>127</sup> SNAICC has recently surveyed the current status of development of ACFCs in the Northern Territory and has identified examples of: a centre with a predominantly non-Indigenous client group; centres where contrary to their intended design, decision-making authority remains primarily with government rather than community; a centre where services have been pared back due to funding cuts; and a centre that has been operational for less than a year despite the process for its development beginning approximately 6 years ago.

Early childhood support is also provided to Aboriginal families in the Northern Territory through the Budget Based Funding Program (BBF). There are approximately 105 services operating under the BBF program in the Northern Territory which has the highest rate of BBF utilisation by Aboriginal and Torres Strait Islander families in the country.<sup>128</sup> BBF services go further than mainstream childcare services by providing a range of non-childcare services, with over one third of the services being outside school hours care for older children and one sixth are mobile services.<sup>129</sup> Even this funding is now at risk with a Bill currently before Federal parliament proposing to end the BBF program,<sup>130</sup> and a clear plan for how these services will be supported and grown into the future yet to emerge.

SNAICC is deeply concerned at the persistent failure to provide adequate access to culturally strong early childhood education and care programs that could support children's development, prepare them for success in education, and support their families in providing quality and safe care. We recommend large scale development of culturally safe and accessible early years services across the Northern Territory as a key measure to support safety and wellbeing for Aboriginal children.

**Recommendation 16:** The Northern Territory Government increase support to its Child and Family Centres, including by redirecting efforts to ensure these centres provide holistic, integrated, and culturally safe services for children and families, led by the local Aboriginal community. The Australian Government should concurrently invest in these Centres to ensure holistic service provision, and capitalise on its investment in their construction.

Parliamentary Privilege  
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**Recommendation 18:** The Australian Government maps early childhood education and care service gaps and under-utilisation across the Northern Territory, and invests in the development of new Aboriginal community-run integrated early years services in areas of identified need.

### 6(b) Intensive and Targeted Family Support Services

Intensive family support services have emerged in light of a growing understanding that families coming to the attention of child protection services have very complex and chronic needs with multiple risk factors requiring intensive, holistic and in-home casework support responses.<sup>132</sup> Intensive family support operates at the secondary tier of the continuum of services, aiming to improve family functioning to ensure the care, safety, and well-being of children. These services aim to prevent: child abuse and neglect; family problems from worsening; and unnecessary placements in out-of-home care.



International research has determined conclusively that a range of evidence-based early intervention and prevention programs deliver significant social and cost benefit returns on investment and show strong potential to inform Australian family support approaches. For example, the SafeCare parenting support program has been implemented and extensively researched in the United States, with a study in Los Angeles showing that 85 per cent of families had no further reports of child abuse 36 months following the intervention.<sup>133</sup> In New York, the New York Foundling is implementing Family Functional Therapy through Child Welfare (FFT-CW), a program that extends the strongly evidence-based Family Functional Therapy model to provide targeted support for families to address issues that lead to child protection intervention. A pilot study of FFT-CW in New York in 2010-11 found that 71 per cent of high risk families met all treatment goals, 55 per cent of high risk cases were closed within 6 months and only 2 per cent of families required an out-of-home care placement.<sup>134</sup> If these kinds of results could be replicated in Australia, the social benefits and cost savings for our society would be enormous. But, of course, the cultural and social contexts of New York and the Northern Territory are worlds apart. International evidence-based programs will still fail to engage and meet the needs of Aboriginal and Torres Strait Islander families where they are not adapted to local culture and context.<sup>135</sup>

SNAICC has undertaken research supported by the Australian Government Department of Social Services under the National Research Agenda for Protecting Australia's Children with Aboriginal and Torres Strait Islander service providers delivering intensive and targeted family support programs which has shown the elements of support programs that are being adapted to meet the needs of Aboriginal and Torres Strait Islander children and families.<sup>136</sup> The 2-year research project across four jurisdictions, including the Northern Territory, conducted in collaboration with Griffith University found that the Aboriginal and Torres Strait Islander services were effectively engaging Aboriginal and Torres Strait Islander families and operating at a high level of quality with 'skilled and experienced staff supported by good supervision and management, with strong team functioning.'<sup>137</sup> Services in the study were engaging families in helpful and constructive ways to develop clear goals that addressed the underlying causes of child protection intervention.<sup>138</sup> Importantly, the research found that adaptation of evidence-based family support approaches for Aboriginal and Torres Strait Islander communities was showing success and that Indigenous leadership was integral to that success – concluding that:

The research demonstrates the capacity of services to adapt the core elements of best practice for Aboriginal and Torres Strait Islander families. Providing services in culturally competent and respectful ways was intrinsic to the services. Their standing as Aboriginal and Torres Strait Islander community services was important to engagement and take-up... The value lies in the services being delivered by Aboriginal community-controlled agencies as these entities are framed by the philosophy that community owns the service, that 'it is our service, for our community.'<sup>139</sup>

The Intensive Family Support Service (IFSS) in the Northern Territory, funded through the federal government, currently works with families with a risk of recurring child neglect, aiming to 'help families keep children in their homes, in their communities, and out of the child protection system'.<sup>140</sup> There are several Aboriginal organisations providing IFSS in the Northern Territory, receiving implementation capacity support from the Parenting Research Centre.<sup>141</sup> As research has shown, the delivery of intensive family support services by ACCOs is important to engagement and take-up.<sup>142</sup> While IFSS represents a positive early intervention approach, it is limited by its sole and relatively late referral pathway through the local child protection agency, Territory Families, limited geographical scope, and requirement for referral to the Child Protection Income Management scheme. Compulsory Child Protection Income Management is a direct rebuff to Aboriginal and Torres Strait Islander self-determination and a paternalistic measure that SNAICC wholly rejects, because we believe its effects to disempower individuals and communities will far out-weigh any benefits. Families in the NT are also supported through 'Targeted Family Support Programs' operated on referral from Territory Families or

community-based services. Central Australian Aboriginal Congress currently provides this program for cases prior to investigation of child protection concerns and at a medium risk level. Congress has found that families need access to Targeted Family Support where children are not attending pre-school or school despite access to other family support prevention programs.<sup>143</sup>

SNAICC recognises the significant potential of increased use of intensive and targeted family support approaches to address the needs of Aboriginal families in the Northern Territory. However, we believe that a significant process of development of the model of support needs to take place with the leadership of Aboriginal community organisations to ensure that the model for implementation is effective, culturally appropriate and empowering for Aboriginal families and communities.

**Recommendation 19:** The Federal and Northern Territory Governments increase the coverage and availability of quality intensive and targeted family support services that are not tied to income management and are Aboriginal and Torres Strait Islander led and focused. This process should include engagement with Aboriginal and Torres Strait Islander community controlled organisations in a process to develop a model of support that is informed by international best practice and also by the knowledge and expertise of Aboriginal and Torres Strait Islander communities about culturally strong and effective ways to support their families.

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<sup>1</sup> Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Social Justice and Native Title Report 2015*, Australian Human Rights Commission (2015), p38.

<sup>2</sup> Steering Committee for the Review of Government Service Provision (2017). Table 16A.9 'Volume F: Community Services' in *Report on Government Services 2017*. Canberra, ACT: Productivity Commission.

<sup>3</sup> Ibid.

<sup>4</sup> Steering Committee for the Review of Government Service Provision (2017). Table 16A.17 'Volume F: Community Services' in *Report on Government Services 2017*. Canberra, ACT: Productivity Commission.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

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