FAMILY MATTERS

Strong communities. Strong culture. Stronger children.

The Family Matters
REPORT 2019

Measuring trends to turn the tide
on the over-representation of Aboriginal
and Torres Strait Islander children
in out-of-home care in Australia

ACKNOWLEDGEMENTS

Family Matters – Strong communities. Strong culture. Stronger children. is Australia's national campaign to ensure Aboriginal and Torres Strait Islander children and young people grow up safe and cared for in family, community and culture. Family Matters aims to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care within a generation (by 2040).

Family Matters is led by SNAICC – National Voice for our Children and a group of eminent Aboriginal and Torres Strait Islander leaders from across the country. The campaign is supported by a Strategic Alliance of over 150 Aboriginal and Torres Strait Islander and non-Indigenous organisations.

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ABBREVIATIONS

AbSec	NSW Child Family and Community Peak Aboriginal Corporation
ACCO	Aboriginal and Torres Strait Islander community-controlled organisation
AIHW	Australian Institute of Health and Welfare
ANC	Antenatal care
APGR	Annual population growth rate
ATSICPP	Aboriginal and Torres Strait Islander Child Placement Principle
BBF	Budget Based Funding
CCB	Child Care Benefit (Child Care Subsidy as of July 2018)
COAG	Council of Australian Governments
CSO	Community Services Organisation
ECEC	Early childhood education and care
IFSS	Intensive family support service
MACS	Multifunctional Aboriginal Children's Services
OOHC	Out-of-home care
RoGS	Report on Government Services
SEIFA	Socio-Economic Indexes for Areas
VACCA	Victorian Aboriginal Child Care Agency

FOREWORD by Family Matters Co-Chairs

The over-representation of Aboriginal and Torres Strait Islander children in out-of-home care is a complex issue. It is a systemic phenomenon that continues to grow across the continuum of statutory child protection involvement. Once again, this year's report shows that our children continue to enter statutory child protection systems at a greater rate, are more likely substantiated, are admitted to orders at higher rates, stay longer and exit via reunification or restoration far less frequently.

We have borne witness to this statistical norm for so long that I fear many have become desensitised to the realities that it represents for our children. At 30 June 2018, 20,421 of our children were living in out-of-home care, the majority of whom will go to bed tonight in a place that is not their own, disconnected from kin, Country and culture. This is unacceptable.

Throughout this report, young people have told us they want change, to feel connected to their families, communities and cultures. We call on Australian governments to listen to young people and work with Aboriginal and Torres Strait Islander communities and their representatives to implement the evidence-based strategies for change contained in this report.

Since the launch of last year's Family Matters report, Aboriginal and Torres Strait Islander children continue to experience unacceptable levels of social disadvantage, and poorer outcomes across every thematic area of the Child Rights Convention. These numbers continue to escalate, due to insufficient attention and action by Australian governments to truly prioritise and actively pursue a child rights agenda. That's what transforms systems and the lives of children.

The over-representation of our children in statutory child protection systems is a litmus test for the success or failure of broader social policy in Australia. The tendency to deflect responsibility for the safety and wellbeing of Aboriginal and Torres Strait Islander children to states and territories on the basis of their role in the administration of statutory child protection systems diverts our attention and focus to the wrong end of the continuum. The solution cannot be found there.

The assumption that these systems, by virtue of their involvement in the lives of our children, deliver the optimal conditions for children to thrive is false. The

data in this year's report, and the well-documented correlation between child protection involvement and the experience of long-term social disadvantage and over-representation in juvenile justice and adult criminal justice systems, tells us very clearly that the current approach is failing.

While our children and families continue to experience increasing rates of homelessness or housing instability, these numbers increase.

While our women and children continue to experience disproportionate rates of domestic and family violence, these numbers will continue to grow.

While we continue to dismiss structural and systemic racism as figments of the Black imagination we will continue to witness disparity and inequity in the lived experience of our children and families.

Until our children and families enjoy equitable access to universal services and targeted supports we should not expect these numbers to change.

Until governments and the service industry accepts that Aboriginal and Torres Strait Islander people are best placed to lead and implement solutions we will continue to tell this same story in reports such as this, for generations to come.

The Family Matters Roadmap, released four years ago, retains striking validity in the current context. It is rights-based, informed by evidence and we can also confirm, as a result of the analysis undertaken in the development of this report, is that it works. The Roadmap, augmented by recommendations presented in this report, articulates a framework for what needs to be done.

The building blocks provide a firm foundation for achieving transformational change, addressing structural and systemic reform and the promotion of programs and practice approaches that will
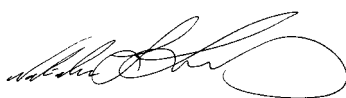
enable a generation of children to grow up safe and well, connected to kin, Country and culture. This is not wishful thinking. We know that this works. In jurisdictions that have embraced the Family Matters Roadmap as a blueprint for reform, and importantly, created the space for Aboriginal and Torres Strait Islander people, representative bodies and community-controlled organisations (ACCOs) to lead the design and delivery of reforms, we are seeing glimpses of the change that we aspire to.

Through the work of the Family Matters campaign, we have the distinct privilege to witness the strength of Aboriginal and Torres Strait Islander communities of care. Where children and families thrive together, despite adversity. These are people and places that have experienced healing and hope; pockets of brilliance that do not capture the attention of research agendas, or feature prominently in collections of literature about what works. These approaches and the people and communities that nurture them, are not visible in the evidence base that shapes policy and dictates investment. We are characterised too often as the problem and not the solution. This must change.

This year's Family Matters report puts a spotlight on the amazing Aboriginal and Torres Strait Islander organisations across Australia that support our children and families to be strong and healthy. These initiatives include, Aboriginal and Torres Strait Islander-led early intervention and prevention services in Queensland, new models of kinship carer finding and support in the Northern Territory, Aboriginal-led policy development and service design in New South Wales, and delegation of statutory authority to ACCOs in Victoria.

We are seeing momentum in some states and territories to adopt dedicated strategies to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. In Queensland, implementation of the *Our Way* strategy continues to strengthen community-controlled service design and delivery. In Victoria, through the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement*, we have seen significant investment to support the transition of Aboriginal children in out-of-home care to ACCOs. Western Australia has recently announced its intention to develop a new strategy, formed around the four building blocks of the Family Matters campaign, to reduce the over-representation of our children in care. **Family Matters has consistently called for this kind of comprehensive Aboriginal and Torres Strait Islander children's strategy at the national level.**

The Family Matters campaign, its leadership and supporters, want to be a part of something that clears a path for our children and lays the foundation for them to excel, to disrupt, to innovate, to create, to lead and to find their place. We want to invest our time, our energy and our passion in their future and we cannot do that by digging our heels in, claiming and justifying a role in perpetuating their status quo. It is our collective challenge for today and mandate for tomorrow.

Natalie Lewis
Co-Chair, Family Matters

Richard Weston
Co-Chair, Family Matters

INTRODUCTION

Family Matters – Strong communities. Strong culture. Stronger children. is Australia's national campaign to ensure Aboriginal and Torres Strait Islander children and young people grow up safe and cared for in family, community and culture. Family Matters aims to eliminate the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care within a generation, by 2040.

The Family Matters reports set out what governments are doing to turn the tide on over-representation and the outcomes for children and their families. The reports contribute to efforts to change the story by explaining the extent of the problem and reporting on progress towards implementing evidence-informed solutions.

The Family Matters Roadmap (published separately) proposes four inter-related building blocks, underpinned by evidence and ethics, detailing the systemic changes needed to achieve this aim:

All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive

Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children

Law, policy and practice in child and family welfare are culturally safe and responsive

Governments and services are accountable to Aboriginal and Torres Strait Islander people

This year, Family Matters reports limited progress to redress over-representation and the drivers of child protection intervention. While some promising policies and initiatives have been introduced, government efforts continue to be broadly piecemeal and ineffective in responding to the needs of Aboriginal and Torres

Strait Islander children, families and communities. Currently, there are 20,421 Aboriginal and Torres Strait Islander children in out-of-home care, making them 37.3% of the total out-of-home care population. The rate of Aboriginal and Torres Strait Islander children in out-of-home care is 10.2 times that of other children, and disproportionate representation continues to grow. As detailed in this report, if the tide is not turned, we project the population of Aboriginal and Torres Strait Islander children living in out-of-home care will more than double in the next 10 years, and the level of over-representation will also increase. Growth in the Aboriginal and Torres Strait Islander out-of-home care population is higher than expected in previous years, and as a result the trajectory over the next 10 years is worse than was reported in last year's Family Matters report.

Government and community agree there is a problem. The impacts of colonisation, past and present discriminatory policies and practices, and persistent social inequity, coupled with under-investment in Aboriginal and Torres Strait Islander community-led and controlled solutions, have created a legacy of disproportionate child protection intervention in our communities across Australia. This report reveals that without substantial and coordinated responses that embed the four building blocks of the Family Matters campaign, progress towards achieving the campaign goal will continue to be limited.

The report is structured in three parts:

1. **Current data and trends in over-representation in out-of-home care:** In order to understand the extent of the problem, it is important to detail the current situation and trends in child protection intervention in the lives of Aboriginal and Torres Strait Islander children and their families. This part describes data relating to children's interactions with child protections systems, and provides a projection of how over-representation is likely to increase over the next 10 years if current conditions are maintained.

The report also includes a description of the types of child protection data that are publicly available; new data provided by state and territory governments; and key data gaps that need to be addressed to properly gauge progress. It includes input provided by governments on their efforts to eliminate over-representation.

2. **Data on economic, social and community level factors:** The causes of over-representation in out-of-home care, both before and after child protection intervention, are many and complex and relate to the inter-generational trauma that has resulted from discrimination and unjust intervention in Aboriginal and Torres Strait Islander family and community life. This part focuses on available data that reflect a number of the drivers of over-representation and the level of access to service supports that can address these issues, as well as available data that measure progress toward parity in child and family economic and social circumstances.

3. **Participation in decision-making and respect for culture:** Connection to culture is a human right and proven to be critical to the safety and wellbeing of Indigenous children across the world. In order to effectively respond to the needs of Aboriginal and Torres Strait Islander children and families, and enable their cultural rights, government must work alongside Aboriginal and Torres Strait Islander communities and support their self-determination in child protection matters. This part examines indicators of participation and partnership: resourcing Aboriginal and Torres Strait Islander community-controlled agencies and involving Aboriginal and Torres Strait Islander children, families, representatives and agencies in child protection policy design, decision-making and system oversight. It explores the extent to which our child protection systems support and maintain cultural identity and connection for children.

Throughout this report, we consider government efforts across all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle (referred to as Child Placement Principle), which is the primary principle in legislation and policy that safeguards children's cultural identity and connections, and seeks to ensure self-determination for Aboriginal and Torres Strait Islander peoples in child protection. The five inter-related elements of the Child Placement Principle (prevention, partnership, participation, placement and connection) are discussed with a particular focus on strategies and progress to drive early intervention and prevention.

In addition to the three main parts of the report, the Report Card measures progress to eliminate over-representation, rating how each state and territory is faring against the four Family Matters building blocks. A positive change profiled in this year's Report Card Summary is that, while outcomes have not significantly improved, policy settings have shown increased alignment with best practice across a number of jurisdictions, in areas such as supporting community-controlled approaches, building cultural safety of the services system and increasing accountability for reform. These instances of increased alignment with the building blocks provide promise that with increased and sustained efforts we can begin to turn the tide.

The report begins with a Community Voices section, which captures how Aboriginal and Torres Strait Islander community-controlled organisations and Family Matters jurisdictional working groups believe governments across Australia are advancing in their efforts. In addition, there is a section showcasing innovative solutions to tackle over-representation that are led by Aboriginal and Torres Strait Islander community-controlled organisations across the country.

For the first time, Family Matters reached out to Aboriginal and Torres Strait Islander young people across the country to seek their input to inform this report. We asked young people what they thought we could all be doing to support them to be happy, healthy and connected. Their thoughtful responses are contained throughout this report.

This year's Family Matters report is also an opportunity for us to exercise data sovereignty in the interpretation of data related to Aboriginal and Torres Strait Islander children and families. Government interpretations of data are often used in support of its own policy agenda and servicing requirements (Kukutai & Taylor, 2016). The report uses data to interpret current efforts to address the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care from our standpoint, and to demand government accountability. This year, as highlighted through *The Family Matters Report 2019*, we are deeply concerned by a number of changes to child protection data reporting that weaken government transparency and accountability towards Aboriginal and Torres Strait Islander peoples. Three jurisdictions – New South Wales, Victoria and Western Australia, now exclude children on third-party parental responsibility orders (a form of permanent care) from their official out-of-home care population counts. **We have added these data to the out-of-home care counts to reflect that children on permanent care orders have been removed from their primary carers and our governments remain responsible to protect their cultural rights and connections.**

This year, the United Nations Committee on the Rights of the Child reviewed Australia's progress to respect, protect and fulfil children's rights. This report reflects many of the findings of that review, reinforcing that the federal, state and territory governments still have a long way to go in fulfilling the rights of Aboriginal and Torres Strait Islander children and young people. It is crucial that governments implement the recommendations of this report in partnership with Aboriginal and Torres Strait Islander people to ensure that our children grow up safe and cared for in family, community and culture.

KEY RECOMMENDATIONS

1. Develop a national comprehensive Aboriginal and Torres Strait Islander children's strategy that includes generational targets to eliminate over-representation and address the causes of Aboriginal and Torres Strait Islander child removal.

   The Family Matters Roadmap, which has been developed through extensive review of the evidence, and consultation with leading Aboriginal and Torres Strait Islander experts, provides a vision and clear direction to inform a strategy for achieving fundamental change to policy and practice. The strategy is an overarching approach that will support implementation and progress in achieving the recommendations that follow, in alignment with the building blocks for change.

Building Block 1
All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive

2. Establish a target and strategy to increase investment in universal and targeted early intervention and prevention services, including family support and reunification services, with a focus on community-led initiatives.

3. Establish a target and strategy to increase access to preventative early years services in early childhood education and care (ECEC), maternal and child health, and family support, including investing in quality Aboriginal and Torres Strait Islander community-controlled integrated early years services through a specific program with targets to increase coverage in areas of high Aboriginal and Torres Strait Islander population and high levels of disadvantage.

Building Block 2
Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children

4. Prioritise investment in service delivery by community-controlled organisations in line with self-determination. Investment should reflect need and be proportionate to the engagement of Aboriginal and Torres Strait Islander families within child protection systems.

   Note: Further recommendations to increase Aboriginal and Torres Strait Islander child, family and community participation in decisions for children are integrated throughout all Family Matters report recommendations.

Building Block 3
Law, policy and practice in child and family welfare are culturally safe and responsive

5. An end to legal orders for permanent care and adoption for Aboriginal and Torres Strait Islander children, replaced by a focus on supporting the permanence of their identity in connection with their kin and culture.

6. Adopt national standards to ensure family support and child protection legislation, policy and practices are in adherence to all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle, including requirements for:
   a. increased representation of families, children and communities at each stage of the decision-making process
   b. increased investment in reunification
   c. increased efforts to connect children in out-of-home care to family and culture.

Building Block 4
Governments and services are accountable to Aboriginal and Torres Strait Islander people

7. Establishment and resourcing of roles and bodies that enable participation of Aboriginal and Torres Strait Islander people in policy and service design and in the oversight of systems impacting their children, including state-based and national Aboriginal and Torres Strait Islander children's commissioners.

8. Development and publication of data to better measure the situation of the over-representation of Aboriginal and Torres Strait Islander children in child protection systems. As a priority we call on all jurisdictions to address gaps in the data that they provide for each Family Matters report as outlined in this report.

About the Aboriginal and Torres Strait Islander Child Placement Principle

The Aboriginal and Torres Strait Islander Child Placement Principle aims to:

- ensure an understanding that culture underpins and is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children in child protection and out-of-home care systems
- recognise and protect the rights of Aboriginal and Torres Strait Islander children, family members and communities in child welfare matters
- increase the level of self-determination of Aboriginal and Torres Strait Islander people in child welfare matters
- reduce the over-representation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care systems.

The five elements of the Child Placement Principle:

Prevention: Protecting children's rights to grow up in family, community and culture by redressing the causes of child protection intervention.

Partnership: Ensuring the participation of community representatives in service design, delivery and individual case decisions.

Placement: Placing children in out-of-home care in accordance with the established Child Placement Principle placement hierarchy:

- with Aboriginal and Torres Strait Islander relatives or extended family members, or other relatives and family members, or
- with Aboriginal and Torres Strait Islander members of the child's community, or
- with Aboriginal and Torres Strait Islander family-based carers.

If the above preferred options are not available, as a last resort the child may be placed with:

- a non-Indigenous carer or in a residential setting.

If the child is not placed according to the highest priority, the placement must be within close geographic proximity to the child's family.

Participation: Ensuring the participation of children, parents and family members in decisions regarding the care and protection of their children.

Connection: Maintaining and supporting connections to family, community, culture and Country for children in out-of-home care.

See SNAICC publication: *Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle: A resource for legislation, policy and program development* (2017).

KEY FINDINGS

1. CURRENT DATA AND TRENDS IN OVER-REPRESENTATION IN OUT-OF-HOME CARE

Aboriginal and Torres Strait Islander children are over-represented at virtually every decision-making point in the child protection system that is currently reported at the national level. Aboriginal and Torres Strait Islander children are far more likely than non-Indigenous children to be notified, investigated, substantiated, placed on a protection order, and to reside in out-of-home care. Furthermore, the disparities between Aboriginal and Torres Strait Islander children and non-Indigenous children have continued to increase dramatically for most of these measures in recent years.

CURRENT RATES OF OVER-REPRESENTATION

In 2018, **Aboriginal and Torres Strait Islander children were 10.2 times more likely to be residing in out-of-home care than non-Indigenous children.** This national figure of over-representation is an all-time high. Over-representation in out-of-home care varied significantly between states and territories, and was highest in Western Australia (17.8 times), Victoria (16.4 times), and the Australian Capital Territory (16.3 times). While data are available on removal of children, a lack of focus on supporting their safe reunification with family is evident in the absence of publicly available data to describe the rate at which Aboriginal and Torres Strait Islander children are reunified with their parents, and the length of time they spend in out-of-home care before reunification occurs.[1] Four jurisdictions (ACT, NT, SA and Vic.) provided data relating to reunification for this report. **Rates of reunification for Aboriginal and Torres Strait Islander children were highest in the Northern Territory, followed by Victoria, however, the Northern Territory also had the highest disparity, with non-Indigenous children significantly more likely to be reunified than Aboriginal and Torres Strait Islander children in 2017-18.**

PERMANENT CARE

In a number of states and territories, there have been strong trends in policy and legislative reform to increase the focus on, and expedite time frames for, the use of long term, permanency-focused orders by child protection authorities and the courts. The Family Matters campaign is deeply concerned that current approaches to permanency planning are not sufficiently attuned to the reality that **permanence for Aboriginal and Torres Strait Islander children is developed from a communal sense of belonging; experiences of cultural connection; and a stable sense of identity including knowing where they are from, and their place in relation to family, mob, community, land and culture** (SNAICC – National Voice for our Children, 2016). Children on permanent care orders are at high risk of losing vital cultural and family connections given poor implementation of the Aboriginal and Torres Strait Islander Child Placement Principle nationally. Across Australia, **Aboriginal and Torres Strait Islander children are seven times more likely to be on a third-party parental responsibility order than non-Indigenous children.** In New South Wales and Victoria, Aboriginal and Torres Strait Islander children are over-represented on permanent care orders at rates significantly higher than the national average. **Notably, well above the national average of eight per 1000 children, in New South Wales, Aboriginal and Torres Strait Islander children were on third-party parental responsibility orders at a rate of 14 per 1000 children.**

PROJECTED GROWTH IN OVER-REPRESENTATION

There is strong reason to believe that the number and proportion of Aboriginal and Torres Strait Islander children in out-of-home care will continue to rise. We used available estimates over the last seven years of child protection data from the Australian Institute of Health and Welfare combined with data from the Productivity Commission Report on Government Services to project future out-of-home care population growth.

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1   There is some national information available on the number of children exiting out-of-home care to reunification, but this information cannot be used for many basic calculations. Most importantly, it cannot be used to calculate the length of time children spend in OOHC because the bulk of the children who are in OOHC (those who are not reunified) are not included in these calculations.

We predict that the population of Aboriginal and Torres Strait Islander children in out-of-home care will more than double in size in the next 10 years by 2028, while the non-Indigenous population of children in out-of-home care will increase by more than 1.5 times. While the growth in out-of-home care is alarming for both populations, this projection presents a particularly startling and disturbing picture of the future impacts on Aboriginal and Torres Strait Islander families and communities if we fail to effectively intervene now.

2. DATA ON ECONOMIC, SOCIAL AND COMMUNITY-LEVEL FACTORS

Aboriginal and Torres Strait Islander child wellbeing includes their safety, health, culture and connections, mental health and emotional wellbeing, home and environment, learning and skills, empowerment and economic wellbeing. Achievement of wellbeing outcomes depends on a complex interplay between individual (child), family factors and broader community and societal factors, which means focusing on just one wellbeing domain to the exclusion of others will not lead to improvements in overall child wellbeing. Ensuring children grow up safe and cared for requires commitments and actions from families, communities, and multiple service support sectors. There is strong evidence that early care and environmental factors have crucial impacts on later health and wellbeing, and that interventions will be more effective the earlier in the lives of children that they are applied. Whole-of-population preventative measures and targeted early intervention supports to improve family and community safety and wellbeing can reduce child maltreatment. Providing early intervention and prevention supports to families has been shown to result in substantial social and economic benefits for individuals, communities and society.

Available data shows that while Aboriginal and Torres Strait Islander people are grossly over-represented on measures of disadvantage that contribute to child protection risks, they are also under-represented in services that could respond and prevent entry to out-of-home care. Service systems have also failed to enable the participation of Aboriginal and Torres Strait Islander peoples in the design, delivery and decision-making about service responses for their children.

a) Structural drivers of child protection intervention

POVERTY

Numerous studies have indicated that poverty is one of the major drivers of child protection system involvement. For Aboriginal and Torres Strait Islander communities, high rates of poverty stem from experiences of colonisation, discrimination, forced child removal and the inter-generational impacts of resulting trauma (The Healing Foundation, 2013). The poverty line is defined according to when a household's disposable (after-tax) income falls below a threshold considered to be adequate to provide the basic necessities of life (Australian Council of Social Services, 2018). Analyses of 2016 Census data demonstrates that **nearly one in three (31.4%) Aboriginal and Torres Strait Islander people are living below the poverty line** (Markham & Biddle, 2018).

HOUSING

Access to safe and healthy housing environments has a substantial impact on the capacity of families to provide safe and supportive care for children. Housing quality, affordability, location and appropriateness are all important determinants of health and wellbeing. Problems with housing – for example, homelessness, mortgage and rental stress, and unstable housing tenure – are indicative of the types of vulnerability and risk that can lead to children coming to the attention of child protection authorities (Australian Housing and Urban Research Institute [AHURI], 2012). Rental stress is one measurement used to assess affordability and is defined as paying more than 30% of household income on rent payments (Australian Bureau of Statistics [ABS], 2018). **The 2016 Census determined that Aboriginal and Torres Strait Islander householders are almost twice as likely to experience rental stress.**

The burden of homelessness on Aboriginal and Torres Strait Islander peoples is reflected in their use of specialist homelessness services across Australia. **In 2017-18, one in four (or 65,200) individuals who accessed specialist homelessness services identified as Aboriginal and/or Torres Strait Islander (Australian Institute of Health and Welfare [AIHW], 2019a).**

b) Access to quality, culturally safe universal and targeted services

MATERNAL AND CHILD HEALTH

Inequity trajectories start early. Pregnancy, birth and early childhood are critical transition periods for families, especially mothers and infants, and present a time of great opportunity for healthy growth, learning and development, as well as to reduce vulnerabilities associated with child protection notifications (Holland, 2015). Antenatal care is especially important for Aboriginal and Torres Strait Islander women who are at higher risk of giving birth to pre-term and low birth weight babies, and who have greater exposure to other risk factors and complications such as anaemia, poor nutrition, chronic illness, hypertension, diabetes, smoking, and high levels of psychosocial stressors (de Costa & Wenitong, 2009; Australian Health Ministers Advisory Council, [AHMAC], 2012). It is encouraging that **the proportion of mothers attending at least one antenatal care session in the first trimester of pregnancy has risen between 2012 and 2017 from 50.5% to 62.9%. However, in 2017, the age-standardised proportion of Aboriginal and**

Torres Strait Islander mothers who attended antenatal care in the first trimester still remains lower than for non-Indigenous mothers (by 7.8 percentage points, 62.9% compared with 70.7%, respectively). It is further concerning that data indicates the gap between Aboriginal and Torres Strait Islander and non-Indigenous child mortality rates has been rising since 2015, with rates for 0 to 4 year olds 2.41 times higher for Aboriginal and Torres Strait Islander children.

EARLY CHILDHOOD EDUCATION AND CARE

The formative years of a child's life are a critical predictor of their successful transition to school and life-long education, health, wellbeing and employment outcomes (Fox et al., 2015). While all children benefit from high quality early learning programs, the benefits are greater for children experiencing vulnerability (Pascoe & Brennan, 2017). As reported last year for 2016-17, in 2017-18 Aboriginal and Torres Strait Islander children are now as likely to attend preschool as their non-Indigenous peers. However, there is no reliable data about the duration and intensity of children's engagement with preschool. There are still striking disparities in access to Commonwealth-funded services such as long day care, family day care and out-of-school hours care. In 2017-18, Aboriginal and Torres Strait Islander children aged 0 to 5 continue to attend these services at half the rate (50%) of their non-Indigenous peers. Expert analysis has identified that the newly introduced childcare subsidy system, with its focus on parental workforce participation, is likely to exacerbate inequality, and runs counter to international research and best practice which points to the provision of low-cost and easily accessible services focused on child needs.

EARLY INTERVENTION SERVICES

Provision of early intervention supports to families is one of the major strategies used to improve outcomes for vulnerable children and families, and is one of the core strategies described in the *National Framework for Protecting Australia's Children 2009-2020* (Council of Australian Governments [COAG], 2009). However, in 2017-18, proportional investment in child protection remains at the same level as the past three years – only 17% of overall child protection funding was invested in support services for children and their families. This amounts to just under $1 billion as compared to over $4.8 billion, or 83%, of funds spent on child protection intervention and out-of-home care services. However, over a longer period, family support expenditure decreased relative to expenditure on out-of-home care and child protection. Although quality data is not available on the full range of family support services, data does show that just under 3% of Aboriginal and Torres Strait Islander children commenced an intensive family support service in 2017-18 across five states and territories where data were available, a rate well below their rate of contact with child protection services.

FAMILY VIOLENCE

Research has suggested that Aboriginal and Torres Strait Islander children are at greater risk of being exposed to family violence than other children (Cripps, Bennett, Gurrin & Studdert, 2009; Mouzos & Makkai, 2004). The harm for children who are exposed to violence can be complex and profound and can include witnessing violence (Goddard & Bedi, 2010); being used or blamed for the violence; and being involved in trying to stop the violence (Humphreys, 2007). Family violence is a major issue driving involvement with the child protection system in Australia. In 2017-18, emotional abuse, which includes exposure to family violence, was the most common type of substantiated harm for all children (AIHW, 2019d).

DRUGS AND ALCOHOL

Research demonstrates that parental substance misuse is one of the most commonly identified risk factors for child abuse and neglect (Australian Institute of Family Studies, 2017). Although data are collected about parental substance use identified as contributing to neglect and abuse by some jurisdictions, data are not routinely collected or published, either as the primary factor or as co-occurring with domestic and family violence and/or parental mental illness (Frederico, Jackson, & Dwyer, 2014). In 2017-18, there was a steady increase in the over-representation of Aboriginal and Torres Strait Islander people in use of treatment services, with Aboriginal and Torres Strait Islander people being 7.2 times as likely to access treatment, up from 6.5 in 2016-17. It is important to note that the available data does not detail the quality and effectiveness of available services, nor the prevention and treatment strategies that work best for Aboriginal and Torres Strait Islander people (Snijder & Kershaw, 2019).

MENTAL HEALTH

There is now a significant body of literature documenting the factors influencing the social and emotional wellbeing of Aboriginal and Torres Strait Islander communities, including structural disadvantages experienced across the social determinants of health, including education, employment, discrimination and racism (Calma, Dudgeon, & Bray, 2017). Parental mental illness, particularly when untreated, can adversely impact on the quality and consistency of care provided to children (Australian Institute of Family Studies, 2010). The most recently available data from 2016-17 indicates that Aboriginal and Torres Strait Islander people were over three times more likely than the non-Indigenous population to use state and territory governments' specialised public mental health services (Steering Committee for the Review of Government Service Provision [SCRGSP], 2019). This was the case for people residing in regional, remote and very remote areas, and in lower socio-economic areas. The over-representation

of Aboriginal and Torres Strait Islander people in acute mental health services suggests that individuals are accessing support in times of crisis. It is important to note that most of these services address the symptoms of mental health issues and not the underlying structural and individual factors that contribute to distress.

3. DATA ON ABORIGINAL AND TORRES STRAIT ISLANDER PARTICIPATION AND CONNECTION TO CULTURE

COMPLIANCE WITH THE PLACEMENT ELEMENT OF THE ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PLACEMENT PRINCIPLE

The Child Placement Principle is comprised of five elements (prevention, placement, participation, partnership and connection) and is designed to serve as a framework for holistic, best practice response for families in contact with child protection systems. The principle is often narrowly interpreted as a hierarchy of placement options for Aboriginal and Torres Strait Islander children in out-of-home care. In relation to the placement element, **the rate of placement of Aboriginal and Torres Strait Islander children with family and kin or other Indigenous carers has continued to drop from 74.8% in 2006 to 64.5% in 2018. The rate of placement with Aboriginal and Torres Strait Islander carers (excluding non-Indigenous family and kin) has dropped even more steeply. In one year alone, this rate dropped from 49.4% in June 2017 to 45% in June 2018.**

PARTICIPATION IN CHILD PROTECTION DECISION-MAKING

Participation of Aboriginal and Torres Strait Islander peoples in decisions that affect them is a core human right (UN General Assembly, 2007) and is recognised as critical to decision-making that is about the best interests of children from a cultural perspective (Committee on the Rights of the Child, 2009). Best practice requires that participation be enabled for children, their families, and their broader communities. In relation to child participation, model legislation should ensure, according to the United Nations Committee on the Rights of the Child, that the "child's views are solicited and considered including decisions regarding placement in foster care or homes, development of care plans and their review, and visits with parents and family" (Committee on the Rights of the Child, 2009b, p. 13).

There have been no significant changes to legislation across Australia in the last year to improve requirements for participation. **Queensland's legislation remains the most comprehensive in the country in terms of meaningfully supporting the participation of Aboriginal and Torres Strait Islander children, families and communities, and Victorian legislation is also closely aligned to this purpose.** Notably, legislation in both of these states provides for the delegation of

statutory powers to Aboriginal community-controlled organisations (ACCOs), creating the potential for enabling higher levels of self-determination and meaningful participation in child protection matters. However, only Victoria has exercised this power to date.

Following Queensland's successful trial of Aboriginal and Torres Strait Islander family-led decision-making in 2016-17, **the Queensland Government has rolled out a Family Participation Program across the state, commencing in 2018 and providing funding to 15 ACCOs** to support Aboriginal and Torres Strait Islander families to participate in child protection decision-making. **Victoria continues its long-standing statewide program, which has strong involvement by ACCOs.** A model of family group conferencing was successfully trialled in the Australian Capital Territory in partnership with Curijo, an Aboriginal business. **Preliminary data provided by the Australian Capital Territory Government indicates that between November 2017 and May 2019, family group conferences were held in relation to 65 Aboriginal and Torres Strait Islander children. Forty-four of those children were successfully prevented from entering care.**

As well as participation in individual case decisions, genuine participation further requires that Aboriginal and Torres Strait Islander peoples, through their representatives, are able to participate in policy development, service design and oversight of the systems and services that impact on the safety and wellbeing of children. At the state and territory level, **Aboriginal and Torres Strait Islander participation has been strengthened where comprehensive strategies for reform have been developed in collaboration with Aboriginal and Torres Strait Islander leaders, particularly in Queensland and Victoria through the** *Our Way and Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement* **strategies, respectively.**

No progress has been made in the appointment of a national commissioner for Aboriginal and Torres Strait Islander children and young people. There are four states that have a position identified for an Aboriginal or Torres Strait Islander person in the role of commissioner for children or assistant commissioner ¬– Victoria, the Northern Territory, South Australia and Queensland – with only Victoria and South Australia supporting the operation of a dedicated commissioner for Aboriginal and Torres Strait Islander children and young people.

INVESTMENT IN ABORIGINAL AND TORRES STRAIT ISLANDER COMMUNITY-CONTROLLED SERVICES

International and Australian evidence strongly supports the importance of Indigenous participation and self-determination in service design and delivery to achieving positive outcomes for Indigenous children and families (Cornell & Taylor, 2000; Denato & Segal, 2013; Chandler & Lalonde, 1998). Enabling the role

and capacity of Aboriginal and Torres Strait Islander organisations is not only important for effective service delivery, but 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 (Australian National Audit Office [ANAO], 2012). This year, four jurisdictions provided data on investment in community-controlled service delivery (ACT, NT, Qld, WA).

The Australian Capital Territory provided data on expenditure on family support services only, of which 6% went to one ACCO to support child, youth and family service programs in 2017-18, and in 2018-19. **Queensland had by far the highest proportional investment in community-controlled services of all jurisdictions providing data.** In Queensland, community-controlled services received 14% of funding spent on child protection, out-of-home care and family support and intensive family support services in 2017-18, and 13.5% in 2018-19. In Western Australia, 12% of child protection funding was reported as being expended on Aboriginal and Torres Strait Islander community-controlled services – though notably this figure is significantly inflated and non-comparable to other jurisdictions as it was provided as a proportion of funding to external agencies, rather than as a proportion of total expenditure. **Despite significant government commitments to increase the role of Aboriginal and Torres Strait Islander community-controlled child protection and family support services, data indicates that service delivery in the Northern Territory continues to be dominated by non-Indigenous providers.** Overall, Aboriginal and Torres Strait Islander agencies in the Northern Territory received just 2.4% of funding spent on child protection, out-of-home care and family support services – 1.8% of family support funding (a decrease of 5.2% since 2016-17) and 0.3% of child protection funding (a decrease of 10.7% since 2016-17).

THE STATE AND TERRITORY REPORT CARD

The fold out Report Card on the following pages identifies state and territory trends across a number of indicators aligned with the four building blocks of the Family Matters Roadmap. Although little improvement is observable in the overall outcomes data, the Report Card shows that a number of states are demonstrating improvement and commitment to align policies, programs and investments with the Family Matters building blocks. Again this year, **Victoria and Queensland scored comparatively high on the report card.** Those states demonstrated their commitment to Aboriginal and Torres Strait Islander participation and accountability with strong investments in Aboriginal and Torres Strait Islander community-controlled child and family services and continued implementation of long-term strategies for change – strategies that are led and overseen by Aboriginal and Torres Strait

Islander organisations and people. Victoria and Queensland also demonstrated outcomes against key indicators with Queensland having the lowest rate of over-representation in out-of-home care nationally, and Victoria having the highest rate of children placed with kin and other Aboriginal and Torres Strait Islander carers. Some states regressed on their report card assessment. **In Tasmania the large numbers of children reported with an unknown Indigenous status meant that key data could not be reported** and this has raised many questions as to whether services provided are recognising and responding to children's cultural needs. **In New South Wales, key gaps in transparency and genuine consultation with Aboriginal and Torres Strait Islander people were reported,** and permanent legal orders that risk severing cultural and family connections for children continue to be used at a rate significantly higher than the national average.

CONCLUSION

In 2019, the Family Matters report again reveals that across almost all indicators, the outcomes for Aboriginal and Torres Strait Islander children and their families are getting worse. While there are some encouraging new policy commitments, and early stage reforms, we know that far greater and more decisive action is needed to arrest the crisis in child protection for Aboriginal and Torres Strait Islander children. The response remains inconsistent and piecemeal, and as a result, most of our key recommendations are the same as last year. We need a significant coordinated national response if we are to achieve the extent of change required. **Through the Council of Australian Governments (COAG), all governments must commit to a national strategy and generational target to eliminate over-representation in out-of-home care and address the causes of Aboriginal and Torres Strait Islander child removal.**

We need clear and comprehensive public data, accountability mechanisms, jurisdictional-based strategies (both national and state/territory), and appropriate investment targeted towards prevention. Most importantly, we need engagement with Aboriginal and Torres Strait Islander peak bodies, community-controlled services and community representatives to enable Aboriginal and Torres Strait Islander-led co-design of policy and its implementation on the ground.

Once the critical importance of culture and self-determination is recognised, and once investment follows that recognition, we can then begin to co-create a future where Aboriginal and Torres Strait Islander children can thrive.

FAMILY MATTERS

**Strong communities. Strong culture.
Stronger children.**

The Family Matters
REPORT CARD 2019

COLOUR GUIDE

Very poor

Poor

Promising/improving

Stronger practice/outcomes

ABBREVIATIONS

OOHC: out-of-home care

ACCO: Aboriginal and Torres Strait Islander community-controlled organisation

ATSICPP: Aboriginal and Torres Strait Islander Child Placement Principle

	Headline indicator Over-representation in OOHC (rate)	Building Block 1 Universal and targeted services	Building Block 2 Participation, control and self-determination
ACT	16.3	• Third highest rate of over-representation in OOHC • Pilot program for family support delivered by an ACCO, with promising early outcomes • Comparatively high rate of pre-school attendance for Aboriginal and Torres Strait Islander children • Third lowest proportional investment in family support and intensive family support (13.4%)	• Pilot of family group conferencing for Aborigin[...] with $1.44m funding committed for four years[...] promising early outcomes • Low investment in ACCOs for child protection [...] (0%) and family support (6%) • Some input to policy design by independent A[...] and Torres Strait Islander review
NSW	10.5	• Comparatively high rate of pre-school attendance • Highest expenditure per child in the population on intensive family support services, but reported limited engagement with ACCOs in design and delivery • Commitment of 30% targeted early intervention funds to ACCOs, but lack of plan for achievement	• Dedicated Aboriginal children's peak body fun[...] policy and sector development roles • Developed some key policies with the state Ab[...] peak, but implementation is lacking • Significant legislation, policy and practice ref[...] progressed with community representatives r[...] very limited consultation and partnership
NT	11.5	• First of eleven planned new Child and Family Centres built in Tenant Creek • Lowest rate of attendance in government approved child care and preschool • Second highest proportional investment in family support and intensive family support (23.9%) • Over-representation in OOHC above national average	• Limited roles and resources for ACCO service [...] and participation (2.4% of expenditure) • No dedicated Aboriginal and Torres Strait Isla[...] peak body for children • No territory-wide model for representative or[...] or family participation in case decisions
QLD	8.5	• Continued funding of $33.3m annually to 33 ACCO family wellbeing services across the state • Lowest rate of over-representation nationally • Third highest proportional investment in family support and intensive family support (16.4%) • First 1000 Days initiative with two ACCOs and eight early childhood development coordinators in ACCOs	• Legislation recognises self-determination, ap[...] ATSICPP's five elements across the Act & requ[...] Independent Entity facilitates family participat[...] • Highest reported funding by far to ACCOs, incl[...] 15 Family Participation Program providers • Aboriginal and Torres Strait Islander peak rol[...] strategy, policy co-design & sector developme[...]
SA	10.4	• Over-representation in OOHC above national average • Community voices note the inclusion of community in design of the state early intervention strategy • Comparatively low child care attendance • High investment in intensive family support per child and high proportion of Aboriginal and Torres Strait Islander children commencing a service	• Family Group Conferencing being established [...] focus on cultural safety, but not led by ACCOs • Target for increased procurement from Aborig[...] organisations in 2019-20 (0.05% to 3%) • No dedicated peak body for Aboriginal and Tor[...] Strait Islander children
TAS	–	• Rate of over-representation not transparent due to deficiencies in identification of Aboriginal and Torres Strait Islander children • Continued trial of Intensive Family Engagement Service with Tasmanian Aboriginal Corporation • Second lowest proportional investment in family support and intensive family support (13.1%)	• Lack of formal and funded ACCO roles in child[...] protection, beyond family support trial • No Aboriginal peak for children and families o[...] policy development roles for ACCOs • No statewide models for community represen[...] or family participation in case decisions
VIC	16.4	• Second highest rate of over-representation in OOHC • Community sector voices cite low funding to ACCOs for prevention focused services • Lowest rate of Aboriginal and Torres Strait Islander children commencing intensive family support • Highest proportional investment in family support and intensive family support (27.1%)	• 46% of Aboriginal and Torres Strait Islander c[...] in care case managed by ACCOs at June 2019[...] – a 250% increase since 2017 • ACCOS resourced for policy input, advice on ca[...] decisions, kinship care finding, cultural plann[...] and to facilitate family decision-making • Continued expansion of delegated statutory fu[...] to ACCOs for children in OOHC
WA	17.8	• Highest over-representation in OOHC nationally • By far lowest proportional investment in family support and intensive family support (4.8%) • Promising new investments including: $20.7m over three years for ACCOS to deliver in-home family supports and 17 new intensive family support services delivered in partnership with ACCOs	• Limited role for ACCOs in OOHC case manage[...] supporting only approximately 6% of children [...] • No peak body role, but some funding to the N[...] Family Safety and Wellbeing Council for input[...] • No state-wide models for community represe[...] family participation in case decisions

* The methodology for development of the Report Card table is described in Appendix IV

	Building Block 3 Culturally safe and responsive systems	Building Block 4 Accountability
al families s and & OOHC original	• Improved placement with Aboriginal and Torres Strait Islander carers in one year (38.6% to 41.2%) • Review of Aboriginal children in OOHC with some reform recommendations progressed • Provision of ATSICPP training to front line workforce in line with *Our Booris, Our Way* recommendation • Low investment in ACCO service provision	• Review of Aboriginal children in OOHC overseen by Aboriginal steering committee, with some reform recommendations progressed • No dedicated Commissioner or peak body for Aboriginal and Torres Strait Islander children • Broad commitment and partnership through ACT Aboriginal and Torres Strait Islander Agreement
ded for original rms eporting	• Large drop in placement with Aboriginal and Torres Strait Islander carers in one year (63.6% to 52.5%) • Highest rate of Aboriginal and Torres Strait Islander children on permanent care orders and adopted • Aboriginal commissioning approach in development to increase investment in Aboriginal led solutions • Some investment in ACCO OOHC case management	• Independent review of Aboriginal children in OOHC completed and awaiting report publication • Provided very limited data to inform this report • No dedicated Commissioner for Aboriginal and Torres Strait Islander children despite sector calls • No dedicated and monitored strategy to address over-representation
delivery der ganisation	• Lowest placement with Aboriginal and Torres Strait Islander carers (33.3%) (excluding Tasmania) • New model for Aboriginal kinship care developed in partnerships with Tangentyre Council and kinship carer finding and support pilots through three ACCOs, and a partnership with Yolngu community • Highest reunification relative to admissions to OOHC	• Reforms input and guidance through an Aboriginal chaired tripartite forum with ACCO representation • No dedicated Commissioner or peak body for Aboriginal and Torres Strait Islander children • Implementing the five year, *Safe, Thriving and Connected* strategy to improve outcomes for vulnerable children
plies uires ion uding es in nt	• Second lowest placement with Aboriginal and Torres Strait Islander carers (36.9%) (excluding Tasmania) • Legislation includes all five ATSICPP elements and allows for delegation of all powers and functions to ACCOs, though delegations are yet to commence • Aboriginal and Torres Strait Islander peak roles in strategy, policy co-design and sector development	• Continued implementation of the *Our Way* strategy to eliminate over-representation • First Children and Families Board guiding implementation of the *Our Way* strategy and with monitoring and evaluation strategy in place • No dedicated, independent commissioner for Aboriginal and Torres Strait Islander children
with a inal res	• Adopted new Aboriginal Action Plan 2019-20 in alignment with the five elements of the ATSICPP • Relatively low rate of Aboriginal and Torres Strait Islander children on permanent care orders • Comparatively low reunification rate relative to OOHC care admissions • Implemented cultural capability training for all staff	• Commissioner for Aboriginal and Torres Strait Islander children, but with limited powers and resourcing • Community Voices note increased efforts to engage with community, though much work to be done • No dedicated peak body for Aboriginal and Torres Strait Islander children
l r identified tative	• High numbers of children in contact with child protection with unknown Indigenous status • Not possible to accurately determine rate of placement with kin this year, though rate was consistently low for the previous four years • Consulting on a permanency framework with a focus on the five elements of the ATSICPP	• Low data transparency due to poor identification of Aboriginal and Torres Strait Islander children • No dedicated commissioner or peak body for Aboriginal and Torres Strait Islander children • No dedicated and monitored strategy to address over-representation • Provided very limited data to inform this report
hildren se ng nctions	• Increase in cultural plan completion, however only 33% of children had approved plans in March 2019 • Second highest rate of Aboriginal and Torres Strait Islander children on permanent care orders • Highest and increasing placement with kin and Aboriginal and Torres Strait Islander carers (78%) • High reunification rate relative to OOHC admissions	• High accountability and collaborative work with ACCOs through the Aboriginal Children's Forum and the *Wungurilwil Gapgapduir Agreement*, including provision of data for monitoring and evaluation • Commissioner for Aboriginal Children and Young People who leads independent systemic inquiries • Investment in policy development roles for ACCOs
ment, oongar to policy ntative/	• Only one ACCO funded to provide OOHC services • Second highest rate of placement with Aboriginal and Torres Strait Islander carers (46.9%) • Lower rates of permanent care orders than most jurisdictions and policy review to focus on stability needs of each child rather than mandate legal permanency	• New commitment to develop a 10-year strategy to address over-representation in OOHC in partnership with ACCOs • No dedicated commissioner for Aboriginal and Torres Strait Islander children • Support to establish the Noongar Family Safety and Wellbeing Council, but no state-wide peak body

COMMUNITY VOICES FROM ACROSS AUSTRALIA

Family Matters jurisdictional working groups and Aboriginal and Torres Strait Islander community-controlled peak bodies and organisations play a key role in leading the campaign and calling for change and accountability in their states and territories. This year, they were invited to comment on progress to address over-representation. Not all states and territories provided input, particularly those without a sector peak or a Family Matters jurisdictional working group. Family Matters strongly advocates that Aboriginal and Torres Strait Islander children and families peak bodies need to be resourced and supported in each jurisdiction to enable representative community voices to participate in policy design, sector development, and oversight of government commitments to improve outcomes for Aboriginal and Torres Strait Islander children.

Note: Data provided in this section may not always be consistent with data provided in other sections of this report as they have been provided by community contributors and may draw on different data sets, including at the jurisdictional level, that may have different data definitions, inclusions and exclusions.

AUSTRALIAN CAPITAL TERRITORY

The Australian Capital Territory has one of the highest rates of over-representation in the country. Aboriginal and Torres Strait Islander children were shockingly 16.3 times more likely to be in out-of-home care than non-Indigenous children in 2017-18. This is a significant increase since last year when the rate of over-representation was 13.9 more likely.

The Australian Capital Territory Government has recently progressed some promising initiatives to tackle this issue. For example, they have funded a pilot program called Functional Family Therapy – Child Welfare, which is managed by Gugan Gulwan Youth Aboriginal Corporation and OzChild. The program works specifically with Aboriginal and Torres Strait Islander families with children and young people aged from birth to 17 years who are at risk of entering the out-of-home care system. So far, the program has seen promising results with 24 families and 68 children in total being strongly engaged in the program. None of the children have entered out-of-home care since accessing the program.

While this is a promising result, preventative efforts in the Australian Capital Territory remain inadequate to eliminate the rising rate of over-representation. The government's spending on family support and intensive family support services comprised just 13.4%

of total funding spent on child protection in 2017-18 and investment in Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) remains very low. It is difficult for ACCOs to keep up with the rate at which children and families need support from culturally safe services. In addition, more must be done by the Community Services Directorate to embed all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle in all of their work.

The government has built stronger partnerships with Aboriginal and Torres Strait Islander organisations and communities to tackle the escalating rate of child removals than in previous years, through initiatives like the Our Booris, Our Way Steering Committee. However, the government has only progressed some of the recommendations put forward by the Aboriginal-led committee. There is a need to set up an Aboriginal-led oversight body to monitor government's implementation of the recommendations by the Our Booris, Our Way Steering Committee to ensure government is accountable to its commitments.

There is also limited government transparency when it comes to understanding the progress of policies and programs that are there to improve outcomes for Aboriginal and Torres Strait Islander children and families. For example, there is limited information available on whether the programs under *A Step Up for Our Kids*, the Australian Capital Territory's out-of-home care strategy, are being progressed and are bringing about positive results for our children.

While the Aboriginal and Torres Strait Islander Elected Body plays a strong role in advocating for the needs of Aboriginal and Torres Strait Islander people, there is no peak body dedicated to Aboriginal children or a commissioner for Aboriginal and Torres Strait Islander

children and young people in the Australian Capital Territory. The Our Booris, Our Way Steering Committee has recommended that the government establish a dedicated children's commissioner. To improve outcomes for Aboriginal and Torres Strait Islander children in the Australian Capital Territory, it is integral to implement a commissioner, along with other recommendations outlined in the *Our Booris, Our Way* review.

Overall, while there has been some progress, the Australian Capital Territory must work in partnership with Aboriginal and Torres Strait Islander people and invest more in our solutions and children if we are to bring about the change that Aboriginal and Torres Strait Islander children deserve.

NEW SOUTH WALES

The NSW Government, via the Department of Communities and Justice (DCJ) (formerly known as Family and Community Services [FACS]), must urgently act to strengthen the Family Matters principles and building blocks in New South Wales. Ongoing reforms present an opportunity to achieve substantive change in partnership with Aboriginal communities, however is undermined by prioritising government-led approaches rather than the necessary partnership approach, enabling Aboriginal communities to drive solutions.

A platform for partnership has been established through the co-designed *Plan on a Page for Aboriginal Children and Young People 2015-21*, the Aboriginal Child and Family Investment Strategy, and the transition of case management of Aboriginal children in out-of-home care to accredited Aboriginal organisations.

The strength of an Aboriginal-led approach is reflected in the development of the *Aboriginal Case Management Policy* by AbSec – NSW Child, Family and Community Peak Aboriginal Corporation, and subsequent endorsement by DCJ, to guide practice with Aboriginal children and families across the continuum of support. Similarly, DCJ and AbSec are working towards establishing an Aboriginal commissioning approach, directing investment to Aboriginal community-led child and family services, aligned to agreed outcomes.

This represents an important step towards embedded greater self-determination and Aboriginal-led solutions.

These initiatives are in contrast to the NSW Government's broader strategy of government-led solutions. Over the past 18 months, large-scale legislative, policy and practice reforms have continued to progress without adequate partnership with Aboriginal communities, despite their disproportionate impact on Aboriginal children, families and communities.

There remains a strong attitude that the "solutions" lie in DCJ improving how they exercise their statutory authority, through FACS-led Practice Frameworks, internal specialist units, or FACS-administered Family Group Conferencing, and the imposition of international models for intensive family supports that are poorly suited to our families, rather than working with Aboriginal communities to develop their own approaches grounded in community and culture. Reforms remain fundamentally government-led and have not adequately engaged Aboriginal communities to agree on the way forward for Aboriginal children and families.

Reforms outlined in *Their Futures Matter: A new approach* have had limited focus on partnering with Aboriginal communities to truly transform the system for Aboriginal children, families and communities, despite recent evidence outlining the disproportionate impact of various government systems on Aboriginal children and young people, families and communities.[2] Rather, a single, government-led agenda dominates, to the detriment of Aboriginal children and families.

Similarly, recent legislative amendments were developed without negotiation with Aboriginal communities, or consideration of necessary safeguards for Aboriginal children, families and communities. Aboriginal communities are deeply concerned that the amendments will contribute to more Aboriginal children and young people being permanently severed from their family, community and culture and exacerbate existing inequalities, particularly in the absence of significant investment in Aboriginal-led family supports, or access to advocacy in uneven decision-making processes. Aboriginal community concerns have been dismissed by the NSW Government, that insists these changes are beneficial to Aboriginal communities.

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2   Forecasting Future Outcomes: Stronger Communities Investment

These government-led actions stand in stark contrast to the NSW Government's commitments to Aboriginal self-determination and social justice, which requires the dismantling of colonial systems that exercise authority over Aboriginal families and communities and the establishment of systems developed and administered by Aboriginal communities themselves.

The NSW Government must turn commitment into action, including:

- establishing an empowered Aboriginal Child and Family Commission
- supporting the Aboriginal-led implementation of existing commitments, including the *Plan on a Page* as a key Aboriginal child and family strategy for New South Wales, the Aboriginal Child and Family Investment Strategy, and the Aboriginal Case Management Strategy
- immediately halt current policies that will have a detrimental impact on Aboriginal children and families, and refocus to Aboriginal designed and administered solutions.

The Family is Culture Review is expected to make further recommendations to address the deep systemic issues that impact on Aboriginal children and families. The NSW Government must embrace this opportunity for critical reflection, partnering with Aboriginal communities to consider the findings and respond to the recommendations with action for substantive, systemic change.

While the approach of the NSW Government remains focused on improving their exercise of statutory authority over Aboriginal families through government-led policy and practice, the statutory system will continue to fail Aboriginal children and families. It is only through genuine partnership, and action towards the Family Matters building blocks through the implementation of co-designed solutions, that the outcomes for Aboriginal children, families and communities will finally improve.

QUEENSLAND

Queensland continues to progress a number of significant reforms to eliminate the over-representation of Aboriginal and Strait Islander children in the child protection system. The *Child Protection Reform Amendment Act 2017* commenced October 2018, embedding the following foundations for reform:

- strengthening the rights of Aboriginal and Torres Strait Islander peoples to self-determination

- acknowledging and enabling the participation of families and communities as the best source of cultural knowledge in relation to their children
- embedding all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle
- placing greater emphasis on ongoing connections and culture as a protective factor.

A key opportunity for the year ahead is to support the transfer of legislated delegations from the chief executive to an appropriate Aboriginal or Torres Strait Islander entity, which is made possible by changes to the Act.

Progress towards key priorities outlined in *Our Way: A generational strategy for Aboriginal and Torres Strait Islander children and families (2017-2037)* and the first *Changing Tracks Action Plan (2017-2019)* is showing promising results.

The Queensland First Children and Families Board (QFCFB), consisting of majority Aboriginal and Torres Strait Islander sector and community membership, is guiding the implementation, investment and evaluation of *Our Way* and associated action plans.

Key achievements to date include:

- commencement of the First 1000 Days program
- investment in 33 Family Wellbeing Services and 13 Family Participation Programs delivered by Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs).

Services receive training and implementation support through the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP).

QATSICPP resources provide ACCOs and government services guidance on upholding the cultural authority and self-determination of families, including the recent *Position Statement on Aboriginal Kinship Care (2018)*.

Ongoing challenges include lack of investment in, and data regarding, reunifying children and young people disconnected from family, and increasing early access for families and children with complex needs to culturally appropriate services.

Queensland is now delivering family-led decision-making statewide, though there is more work to be done to ensure investment is targeted and enables families to access family-led decision-making at all points of the child protection continuum, especially at their first engagement to prevent further progression along that continuum.

QATSICPP is working with the Queensland Government to obtain data that will inform the development of catchment profiles aligned with Queensland's Family Wellbeing Services. Once established these local-level report cards will profile key outcomes and indicators, consistent with the scope of measures in this report, to tell the story of regional, state and national outcomes for our children and provide clear line of sight for what changes need to be made and where.

Other developments currently underway include:

- a wellbeing outcomes framework
- a healing framework
- trialling of a self-audit tool to assist services to operate according to the Family Matters building blocks
- review of the Queensland Family and Child Commission, which will influence appropriate resourcing and structure reflective of the overly-represented families in out-of-home care, such as the introduction of a dedicated commissioner for Aboriginal and Torres Strait Islander children.

SOUTH AUSTRALIA

The Family Matters Working Group in South Australia (FMWGSA) works to further the priorities of the national Family Matters Roadmap, and to work alongside community, government and non-government partners in order to further the over-arching objective of reducing the over-representation of Aboriginal children in the South Australian child protection system (reported at 33% in the 2019 Report on Government Services) and to increase the percentage of children placed in accordance with the Child Placement Principle (65% in 2018)[3].

In 2019, the working group has refreshed its local strategy to focus on creating more meaningful opportunities for Aboriginal families to take part in the discussions and decisions that affect them and their children. This means providing safe and culturally respectful spaces for families to engage in problem identification and the implementation of family and community-based solutions to issues that may lead to young people coming into contact with the Department for Child Protection (DCP). We are supportive of local level Aboriginal family-led decision-making and encourage the Department for Child Protection to increase its efforts in the implementation of family

group conferencing approaches when working with our children and families.

The Family Matters Working Group SA supported a National Week of Action event on 25 May 2019 in the Adelaide CBD, celebrating Aboriginal cultural connections, cultural heritage and the important role of Elders in supporting children and families, supported by Tauto Sansbury (Co-Chair), Aunty Heather Agius and Aunty Yvonne Agius, respected community Elders and leaders in keeping the campaign both relevant and connected to communities.

Family Matters South Australia's implementation of priority change efforts is entirely linked to levels of resourcing to support the working group's strategy. Whilst the working group has been able to rely on modest financial contributions from the DCP and sector partners over the last two years, any substantial scaling up of change efforts will require a much more targeted investment in campaign infrastructure, including additional staff to support family and community engagement initiatives.

The working group acknowledges initiatives by DCP to develop specific responses for Aboriginal families and children (including the Aboriginal Action Plan 2019-20), and also acknowledge a slight reduction in the over-representation of Aboriginal children in out-of-home care during the 2017-18 period compared to the previous year (10.4 compared to 10.8 in 2016-17)[4]. The working group also acknowledges the appointment of the first ever commissioner for Aboriginal children and young people in this state and has gratefully welcomed Commissioner April Lawrie to the working group membership.

The working group is supportive of policy and strategy shifts that have taken place within DCP and the Department of Human Services, including the renewed focus on Aboriginal families in the design phases of the state government's early intervention strategy. The group is mindful, however that the only indicators truly indicative of success of these policies and strategies are the rates of removal of Aboriginal children as well as the disproportionality ratios of Aboriginal and Torres Strait Islander children in care. These figures will continue to be of most interest to the working group in holding government accountable for its commitment to the Family Matters campaign principles and objectives.

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3   Office of the Guardian for Children and Young People (2019). 'Snapshot of Australian Aboriginal Children and Young People in Care and/or Detention from the *Report on Government Services 2019*, April 2019, accessed at www.gcyp.sa.gov.au

4   Family Matters. (2018). *The Family Matters Report 2018*. Melbourne: SNAICC – National Voice for our Children.

Aboriginal families and communities in South Australia continue to want to take part in and have control over the decisions affecting their children, and continue to want them to have every opportunity to be raised in, and thrive in, safe and happy families and communities. This is going to require a very significant scaling up of current initiatives designed to support Aboriginal families early, as well as those initiatives that seek to reunite Aboriginal children with their families in a timely manner.

VICTORIA

Over the past year, Victoria has progressed a number of reforms to address the over-representation of Aboriginal children and young people in out-of-home care. We commend the Victorian Government's commitment to progressing self-determination for all Aboriginal people living in Victoria. In particular, there has been significant investment in Aboriginal child and family welfare; including $13.6 million over two years to support the transition of Aboriginal children to Aboriginal community-controlled organisations (ACCOs). Two ACCOs are authorised under Aboriginal Children in Aboriginal Care (ACAC) to case manage Aboriginal children in out-of-home care, and two are in pre-authorisation phase. Currently, almost 50% of Aboriginal children in care are now managed by an ACCO – a 2.5 times increase since 2017. By June 2020, 216 Aboriginal children will be authorised to an ACCO.

The Victorian Government has also invested $53.5 million in *Wungurilwil Gapgapduir: Aboriginal Children in Families Agreement* – the first tripartite agreement between the Aboriginal community, the child and family services sector and the Government. This agreement is aimed at redressing the over-representation of Aboriginal children in out-of-home care.

However, despite this progress, more funding to ACCOs is needed to reflect growing need, especially in the prevention space. For example, Victorian ACCOs receive 9% of total government funding spent on prevention and out-of-home care services, despite Aboriginal children making up 17% of the child protection population. Further, in the two-year time period between April 2017 and March 2019, 73 out of 702 (10%) unborn reports for Aboriginal children were substantiated within six months of birth, compared to 9% for non-Indigenous children. In addition, in that same period, 146 out of 702 (21%) unborn reports for Aboriginal children progressed to out-of-home care within 12 months of birth. This is significantly higher than the non-Indigenous cohort (13%), suggesting that greater investment in culturally

safe prevention services is crucial. The Victorian Aboriginal Child Care Agency (VACCA) is working with the Department of Health and Human Services (DHHS) and other key stakeholders to progress the commitment for all unborn reports to be managed by ACCOs.

In terms of ensuring that Aboriginal children in out-of-home care can maintain their cultural connections, 847 cultural plans have been endorsed since implementation of the new cultural planning model in Victoria. However, at the end of March 2019, just 568 (33%) Aboriginal children and young people had approved cultural plans, suggesting that more work needs to be done in this space. In this regard, DHHS has agreed to review the current process around developing cultural plans and provide greater responsibility in developing and implementing cultural plans to ACCOs. Further, in terms of ensuring connection through appropriate placements, in March 2019, 42% of Aboriginal children and young people were recorded as having an Aboriginal carer. The Aboriginal status of the carer was not recorded for approximately 33% of Aboriginal children and young people. Also, 50% of Aboriginal children and young people in kinship care were placed with Aboriginal carers.

Finally, other notable developments include:

- There has been some limited funding to develop an Aboriginal evidence base of what works. VACCA is developing an outcomes framework that will include cultural indicators for DHHS.
- Aboriginal-led research and evaluation underway for a range of initiatives including ACAC, The Orange Door and the new model of kinship care.
- The Victorian Aboriginal Children & Young People's Alliance (VACYP) has been funded to develop a business model for ACCO child and family services.
- DHHS will develop a carer strategy for carers of Aboriginal children in partnership with VACYP members.

Despite these initiatives, as at March 2019, 19.1% of Victorian Aboriginal children and young people were involved with the child protection system, compared to 1.4% of non-Indigenous children and young people. In the same period, 16% of Aboriginal children engaged with child protection were subject to a permanent care order. The average length of stay in out-of-home care for Aboriginal children and young people in March 2019 was six months longer than non-Indigenous children and young people (three years versus two years and six months). The percentage of Aboriginal children exiting out-of-home care to be reunified with their family within six months was 59%, whereas after

six months the percentage dropped to 41% (Feb 2018 – Jan 2019). These statistics indicate that despite promising initiative, sustained effort is needed to eliminate the over-representation of Aboriginal children and young people in out-of-home care in Victoria.

WESTERN AUSTRALIA

It is with much sadness and despair that we report that the number of Aboriginal children and families having contact with the Western Australian child protection system has increased. Aboriginal children today represent more than 55% of the total children in out-of-home care, a statistic significantly higher than any other state in Australia.

In Western Australia, Aboriginal children are more likely to enter out-of-home care than non-Indigenous children, they are more likely to have a higher number of placements, stay in care longer and be subject to a finalised guardianship order.

In 2018, the Western Australian Government introduced and funded a range of new early intervention family support services. These services are provided directly by an Aboriginal community-controlled organisation (ACCO) or in partnership with an ACCO. The objective of these services is to divert Aboriginal families from the child protection system and less Aboriginal children entering out-of-home care.

Since 2018, very little has changed within the out-of-home care sector.

In July 2019, the Western Australian Government announced its reform plans pertaining to out-of-home care had been deferred for at least 12 months. In deferring the reform, the Government identified key objectives, inclusive of collaboration with ACCOs and Aboriginal communities and the development of trauma-informed and responsive service models. Yorganop continues to work alongside the Government, and stakeholders, to make certain the voices of Aboriginal children in out-of-home care, their families and communities are heard and listened to.

Yorganop is Western Australia's only ACCO providing foster care. Yorganop is funded by the Government to provide out-of-home care arrangements for Aboriginal children. In 2017/18 there were 2,452 Aboriginal children in out-of-home care. Yorganop was funded to provide general care arrangements for 114 of these children (equal to 4.6%). At this time, 978 Aboriginal children in out-of-home care were

living in non-Indigenous care arrangements. Yorganop has the capacity to provide more Aboriginal children in out-of-home care with culturally appropriate care arrangements, however, without the support of the Western Australian Government, this is not possible.

In Western Australia, young people 'age out-of-care' the day of their 18th birthday. It is known that these young people are a particularly vulnerable group, requiring a suite of services to support positive and smooth transitions from care to the community. To support Aboriginal young people in their leaving care transition, Yorganop is partnering with Anglicare in their co-design and implementation of a Home Stretch Trial.

Finally, given that the over-representation of Aboriginal children in out-of-home care in Western Australia is a significant concern, the Department of Communities has supported the establishment of the Noongar Family Safety and Wellbeing Council (NFSWC), which has the potential to increase advocacy around these issues.

The objectives of the NFSWC are to assist in the provision of relief from poverty, sickness, suffering, destitution, misfortune, distress and helplessness for Aboriginal people in Western Australia, without discrimination. The NFSWC's role includes:

- providing a strong voice for Noongar children and families to promote human rights, self-determination and cultural healing
- providing leadership in preventing Aboriginal children and youth being removed from family
- promoting policy, legislation, framework and program development consistent with cultural safety and human rights
- supporting and strengthening Noongar people's rights to cultural safety and equitable partnerships in all aspects of Government engagement and service delivery
- assisting Aboriginal community and member organisations to engage in capacity building in relation to family safety and well-being
- supporting members to provide early intervention, family support and residential care for Noongar children
- engaging in research that is at the forefront and embodies Noongar Kaatijin family safety and wellbeing.

FOCUS ON ABORIGINAL AND TORRES STRAIT ISLANDER-LED SOLUTIONS

To effectively respond to the needs of children and families and ensure that Aboriginal and Torres Strait Islander peoples' rights to participation and self-determination are fulfilled, Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) must have adequate roles, resources and funding. International and Australian evidence is clear that the best outcomes in community wellbeing and development for Indigenous peoples are achieved when those peoples have control over their own lives and are empowered to respond to and address the problems facing their own communities. The evidence that supports this is detailed in Part 3 of this report.

Across the country Aboriginal and Torres Strait Islander peoples and their organisations are demonstrating excellence in supporting families and transforming the lives of our children for the better. These programs span areas including prevention and early intervention, out-of-home care, cultural connection, reunification and policy design. The examples of promising initiatives highlighted here are expanded on throughout this report.

ABORIGINAL AND TORRES STRAIT ISLANDER INTEGRATED EARLY YEARS SERVICES, ACROSS AUSTRALIA

Multifunctional Aboriginal Children's Services (MACS) and Aboriginal Child and Family Centres (ACFCs) play a crucial role in providing Aboriginal and Torres Strait Islander children and families access to quality, culturally safe services. These services connect vulnerable families to an array of integrated services that are designed to meet locally determined priorities and needs. The role of both ACFCs and MACS in reaching out to Aboriginal and Torres Strait Islander children who are not otherwise accessing early education and care services illustrates the positive impact of local ownership of such services. According to Trudgett and Grace (2011), 'the establishment of [MACS] centres is potentially the most important contributor to the decrease in the discrepancy between the rates of Indigenous and non-Indigenous enrolment in early childhood services' (p.18). Similarly, the evaluation of the New South Wales ACFCs in 2014 confirmed that, on average, 78% of children attending child care through the ACFCs in New South Wales had not previously accessed early education and care (CIRCA, 2014).
More information can be found on page 60 of this report.

ABORIGINAL AND TORRES STRAIT ISLANDER FAMILY WELLBEING SERVICES, QUEENSLAND

The Queensland Government has invested $33.34 million per annum to roll out 33 Aboriginal and Torres Strait Islander community-controlled services to support families experiencing vulnerability across the state. These services work with various culturally appropriate universal, secondary and specialist services; placement services; Family Participation Program services; and with individual families to provide tailored, holistic and coordinated supports to meet each family's unique needs. Data from the first 12 months of operation demonstrate that the 33 Aboriginal and Torres Strait Islander organisations that deliver early intervention support to families have achieved half the rate of re-notifications to the department compared with mainstream, non-Indigenous organisations (Lewis, 2019).
More information can be found on page 85 of this report.

AN ABORIGINAL-LED NURSE FAMILY PARTNERSHIP PROGRAM, NORTHERN TERRITORY

In the Northern Territory, a family partnership program led by the Central Australian Aboriginal Congress is supporting mothers of Aboriginal children (during pregnancy and up to two years post birth). As part of the service, nurses and Aboriginal community workers support mothers to stay healthy during pregnancy and make their homes safe for them and their families. In 2018, a study of the program showed that from 2009 to 2015, compared to matched controls, children of families on the program were 62% less likely to have any episode of substantiated neglect and the children of first-time mothers were 94% less likely to spend any annualised days in out-of-home-care.
More information can be found on page 54 of this report.

A NEW MODEL OF KINSHIP CARE, VICTORIA

Victoria's new kinship care model commenced in March 2018. It demonstrates a strong commitment to prioritising the role of ACCOs in developing processes for culturally safe kinship carer assessment and support. As part of the model, the Victorian Government has funded the Victorian Aboriginal Child Care Agency (VACCA) in partnership with the First Nations Legal and Research Services and the Koorie Heritage Trust to deliver the Aboriginal Kinship Finding Service. The service includes the establishment of a genealogical database to support early kinship carer identification, thus increasing opportunities for identifying placements that are compliant with the Aboriginal and Torres Strait Islander placement hierarchy.
More information can be found on page 76 of this report.

A NEW MODEL OF KINSHIP CARE, NORTHERN TERRITORY

In the Northern Territory, Territory Families funded Tangentyere Council Aboriginal Corporation (Tangentyere Council) to develop a new family and kin care model. Tangentyere Council developed Children Safe, Family Together through extensive consultation, and drawing upon the expert advice and support of the Victorian Aboriginal Child Care Agency (VACCA). The model provides a comprehensive approach to identifying, recruiting and supporting Aboriginal family and kin carers that is evidence and place-based. At the same time, Territory Families has funded a number of Aboriginal organisations to take the lead in finding family for Aboriginal children who are unable to live with their parents and recruiting and supporting Aboriginal kin carers. Since these programs were introduced, 42 Aboriginal children have been placed with Aboriginal carers (an increase of 18% since the previous year).
More information can be found on page 83 of this report..

AN ABORIGINAL-DESIGNED ABORIGINAL CASE MANAGEMENT POLICY, NEW SOUTH WALES

In 2017, the NSW Government commissioned AbSec – NSW Child, Family and Community Peak Aboriginal Corporation, as the peak organisation for Aboriginal children and families in the state, to lead the development of the Aboriginal Case Management Policy and the accompanying Rules and Practice Guidance handbook. The policy seeks to respond to the specific needs of Aboriginal families and children across the child protection continuum, with a strong focus on prevention and early intervention, and oversight of policy implementation through Aboriginal community-controlled mechanisms. AbSec consulted widely with Aboriginal communities and non-Indigenous stakeholders before developing the resource and the policy is considered to be holistic and culturally responsive. The NSW Government endorsed the policy in 2019.
More information can be found on page 84 of this report.

DELEGATION OF STATUTORY AUTHORITY TO ABORIGINAL COMMUNITY-CONTROLLED ORGANISATIONS, VICTORIA

In Victoria, section 18 of the *Children Youth and Families Act 2005* (Vic.) enables the Secretary of the department to authorise the principal officer of an Aboriginal agency to perform specified functions and exercise specified powers conferred on the Secretary by or under the Act in relation to a protection order in respect of an Aboriginal child. This power has been exercised through Victoria's Aboriginal Children in Aboriginal Care program, with Aboriginal community-controlled organisations (ACCOs) taking full responsibility for the care and case management of Aboriginal children in out-of-home care. This role has been commenced through the Victorian Aboriginal Child Care Agency (VACCA) with the Nugel program, and through Bendigo and District Aboriginal Cooperative with the Mutjang Bupuwingarrak Mukman program. Preliminary data indicates that children in these programs have remained connected to, or re-develop connections to their families, communities and cultures by being placed within the care of their kin or by being reunified with their families. By June 2020, 216 Aboriginal children will be authorised to an ACCO.
More information can be found on page 88 of this report.

FOCUS ON PREVENTION AND EARLY INTERVENTION

A prevention and early intervention approach to child safety and wellbeing seeks to create the conditions that allow for families and children to thrive and is critical for upholding the rights of Aboriginal and Torres Strait Islander children to grow up within their own family and community. Supporting families to care for their children requires investment and action beyond child protection policies and programs. It depends upon income support, wages and tax policies, health, housing, justice, education, and other social programs.

Recent research has confirmed that families with complex problems and intergenerational histories of maltreatment are those most known to child protection agencies (Arney, 2019). It is essential that service responses are equipped to promote healing and functioning in families with multiple and complex needs. Efforts to reduce the over-representation of Aboriginal and Torres Strait Islander children in care need to address all three levels: prevention, early intervention and statutory intervention, with a focus and emphasis on ensuring the availability and access to primary preventive services.

Under this approach, it is essential that services and systems be configured so that Aboriginal and Torres Strait Islander people lead the service design and delivery for our children. As highlighted in the Family Matters Roadmap, quality, culturally safe services are required across the three levels of service provision depicted on the following page to ensure that Aboriginal and Torres Strait Islander children thrive.

Level 1

Primary prevention (primary level) which includes services and activities that are universal with a whole-of-community focus that aim to prevent child maltreatment via programs and resources to improve the health, safety and wellbeing of children, families and communities.

Primary prevention involves population-level strategies that are **universally available to all families** and include a range of health services, early childhood education and care, primary and secondary school education, employment and housing.

Key related data points available within this report include:

- Access to maternal child health services and infant health outcomes – *Section 2.3*
- Access to early childhood education, development and care – *Section 2.3*
- Access to housing service supports and housing stability indicators – *Section 2.2*
- Poverty indicators – *Section 2.2*

Level 2

Level 2: Early intervention (secondary level) which includes services and activities that are targeted for groups or individuals experiencing disadvantage and aim to enhance family functioning and increase parental skills and knowledge to prevent maltreatment occurring.

Early intervention involves family support services **targeted at families that may experience difficulty** in caring for children or showing early signs that problems may arise. The *early* in early intervention means both early in the child's life, and at the early stages of a problem emerging. The aim of early intervention is to reduce risks for families experiencing vulnerabilities, meet unmet needs, and resolve problems at an early stage.

Key related data points available within this report include:

- Investment in family support service provision – *Section 2.3*
- Access to family support services – *Section 2.3*
- Family violence incidence and related data – *Section 2.3*
- Access to alcohol and other drug treatment services – *Section 2.3*
- Psychological distress and access to mental health services – *Section 2.3*
- Investment in Aboriginal and Torres Strait Islander community-controlled family support services – *Section 3.3*

Level 3

Statutory intervention (tertiary level) is for children and families where maltreatment has been identified and aims to ensure safety, appropriate care and therapeutic support to children and to prevent the harm from re-occurring. They are used when it has been determined that parents or a caregiver cannot provide safe care for a child without statutory intervention. Family support, family preservation, investigation, obtaining court orders, out-of-home care, family reunification, cultural connection, post-care support, and therapeutic services are all part of the tertiary child protection and family support system.

Key data points include:

- Rates of child protection notification, investigation, substantiation and placement in out-of-home care – *Section 1.3*
- Rates of children subject to long-term or permanent care orders, or adoption – *Section 1.3*
- Rates of placement of children in out-of-home care with Aboriginal and Torres Strait Islander carers – *Section 3.1*
- Discussion of data gaps regarding reunification and state-based reunification data – *Section 1.3*
- Discussion of data gaps relating to the quality and implementation of cultural support plans for children in out-of-home care – *Section 3.2*

PART 1

CURRENT DATA AND TRENDS IN OVER-REPRESENTATION IN OUT-OF-HOME CARE

1.1 OVERVIEW

The over-representation of Aboriginal and Torres Strait Islander children in out-of-home care placements is the end result of several linked processes, all of which are essential to understanding what it will take to bring about substantial change. From a systems perspective, the number of children in out-of-home care at any point in time is a function of four interrelated processes:

1. **Children already in out-of-home care**
   This is a count of all children who are recorded as living away from their parents in out-of-home care on a given day. Some children will have been in out-of-home care for one day and some for 17 years. This gives a **point-in-time** count of the **prevalence** of out-of-home care and is reported nationally as at 30 June in *Child Protection Australia and the Report on Government Services.*

2. **Children entering out-of-home care**
   This is a count of all entries into out-of-home care in a given period of time (usually over a year). Some children may have been in out-of-home care in an earlier year and others have had no prior contact, but all commenced a placement in a given year (i.e. removed from the care of their parent(s) and placed with a kinship or foster carer, in a residential care service, or other placement option in that jurisdiction). This is known as the **incidence** of out-of-home care (i.e. new cases) or an **entry cohort.**

3. **Children exiting out-of-home care**
   This is a count of all children exiting out-of-home care in a given period (usually a year). This is known as an **exit cohort.** Most children exit care because they turn 18 years (i.e. age out of care), others return to the care of their parents or other family members, and some exit to other jurisdictional permanent care arrangements.

4. **The time children spend in out-of-home care**
   When children enter care, they stay for very short to long periods of time (i.e. until they turn 18 years). This is commonly referred to as **length of stay** or duration in care, and is a main driver of prevalence, or the total number of children living in out-of-home care.

When considered this way, over-representation and under-representation could occur in any or all of these processes. Focusing only on those children in out-of-home care or those exiting out-of-home care leads to poor policy decisions. Reducing over-representation of Aboriginal and Torres Strait Islander children in out-of-home care requires legislative, policy and program attention to children entering care, in care, and exiting care. Crucially, prevention and early intervention are necessary to strengthen families to enable them to provide the best possible environment for their children, and family support is necessary to provide in-home or intensive services when there are concerns about children, whether at entry to out-of-home care or pre and post reunification decision points.

1.2 HOW OVER-REPRESENTATION OCCURS

Over-representation of Aboriginal and Torres Strait Islander children in out-of-home care is a result of a complex range of factors related to inter-generational experiences of trauma, poverty and disadvantage for families and communities and under-representation in universal prevention and early intervention services. The likelihood of an Aboriginal or Torres Strait Islander child coming to the attention of authorities, being notified, investigated, substantiated and placed in out-of-home care is greater compared with non-Indigenous children. At the same time, over-representation reflects whether there is the same likelihood of an Aboriginal or Torres Strait Islander child, once placed, being returned to the care of their parents (rate of reunification or restoration) and how long this process takes (length of stay).

For Aboriginal and Torres Strait Islander children and families, the further into the system, the more intrusive the intervention. Each decision-making point requires different strategies for bringing the system to parity. For example, whether to refer to a support service or report to the statutory agency, the type of support service to which the family is referred, whether to investigate, the assistance needed if statutory intervention is not warranted, whether out-of-home care is needed, the type of order and whether to return a child to parental care.

1.3 CURRENT SITUATION AND TRENDS

In 2018, Aboriginal and Torres Strait Islander children were 5.5 times more likely to be reported to child protection; 9.9 times more likely to be subject to a protection order, and 10.2 times more likely to be living in out-of-home care than non-Indigenous children (see Figure 1). These rate ratios (standardised difference between the rate for Aboriginal and Torres Strait Islander children and the rate for other children) have been dramatically increasing over the last decade. Rate ratios use the non-Indigenous rate as the baseline, and show how many times greater the Aboriginal and Torres Strait Islander rate is.

Figure 2 shows the ratio of Aboriginal and Torres Strait Islander children who were involved with a state or territory child protection system compared with non-Indigenous children in 2018. At the highest end of the range, Aboriginal and Torres Strait Islander children in Western Australia were almost 18 times more likely to be placed in out-of-home care than a non-Indigenous child.

FIGURE 1   Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children involved with child protection systems in Australia, 2006-18

Source: 2005-2006 data from Chapter 15 Child protection services (SCRGSP, 2016)
2007-2017 data Chapter 16 Child protection services (SCRGSP, 2018, 2019)
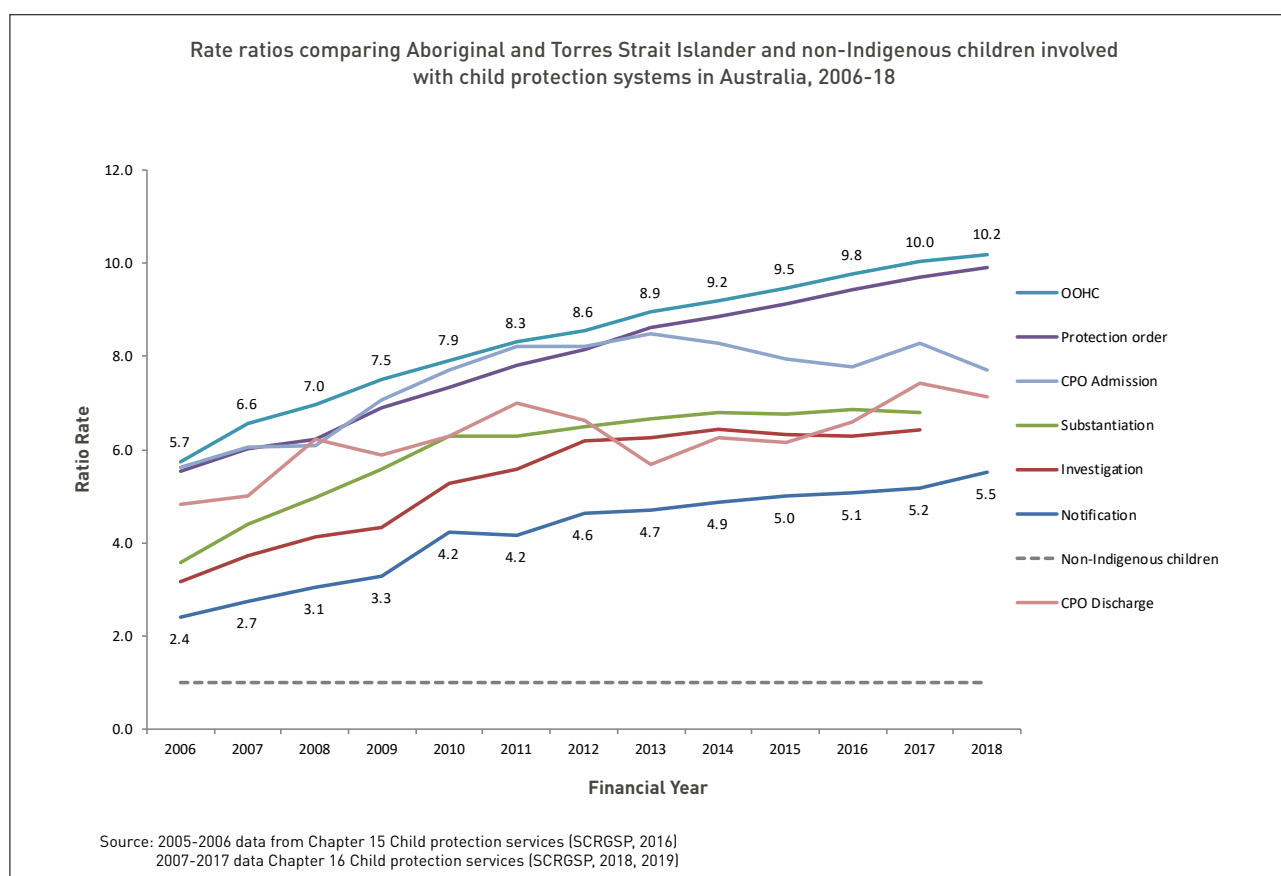
Rate ratios for substantiations and investigations are not provided for 2017-18 because NSW did not provide data for investigations and substantiations in 2017-18. Since NSW is the largest jurisdiction which accounts for a large percentage of all the children in investigations and substantiations, national aggregate data for investigations and substantiations cannot be meaningfully constructed, compared to previous years.

FIGURE 2   Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children involved with child protection in Australia, by jurisdiction, 2006-18

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children involved with child protection in Australia, by jurisdiction, 2006-18

a. Notification, investigation and substantiation rates were calculated as the number of children aged 0–17 years (including those whose age was not stated) in at least one out of home care placement during the year, divided by the estimated population aged 0–17 at 31 December, multiplied by 1000. For Indigenous children, the June projections for two years were averaged to obtain a population figure for December of the relevant year. Rates could not be calculated for children of unknown Indigenous status as corresponding population data were not available.
b. Protection order and OOHC rates measured at June 30 each financial year.
c. Number of children on Third-party Parental Responsibility Order added to OOHC data for NSW, VIC and WA for consistency reason.
Source: Tables 16A.1 and 16A.2 from Chapter 16 Child protection services (SCRGSP, 2019) ; Table S30 from Child Protection Australia 2017-18 (AIHW, 2019)

ENTRY TO AND DISCHARGE FROM OUT-OF-HOME CARE FOR ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

Entry and discharge data counts entry and exit from out-of-home care during the year. The entry rate to out-of-home care for Aboriginal and Torres Strait Islander children dropped from 13.6 per 1000 children in 2016-17 to 12.8 per 1000 Aboriginal and Torres Strait Islander children in 2017-18 while the rate for non-Indigenous children remained stable at 1.4 per 1000 children (Australian Institute of Health and Welfare [AIHW], 2019d). The rate of discharge from out-of-home care for Aboriginal and Torres Strait Islander children was higher (11.2 per 1000 children) in comparison with non-Indigenous children (1.3 per 1000). Data are not currently disaggregated by exit type, so it is not known whether children are exiting due to age or reunification.

DATA GAPS

REPEAT ENGAGEMENT WITH CHILD PROTECTION SERVICES, BY INDIGENOUS STATUS

Child protection involvement is not just more likely for Aboriginal and Torres Strait Islander families it is also more likely to be repeated. Research has found that Aboriginal and Torres Strait Islander children were over-represented in recurrence at multiple stages of intervention, and that Indigenous status was a stronger predictor of subsequent investigation than a rating of 'high risk' on the risk assessment tool (Jenkins, Tilbury, Hayes, & Mazerolle, 2018). To better understand the full impact of over-representation, it is important to understand not just how many children have contact with the system, but how often they experience this. While some data are available nationally on children who are repeat clients of child protection services at different points of contact, these data are not reported by Indigenous status.

Recommendation: That data be collected and reported on new and repeat contact with child protection services, by Indigenous status, at each stage of contact, including notification, investigation, substantiation, entry to orders, entry to care, reunification and post guardianship or adoption order.

LIMITATION OF POINT-IN-TIME ESTIMATES

The data currently publicly available mainly reports on prevalence, not incidence. They are largely based on point-in-time counts at 30 June that are not linked to each other (i.e. children can have multiple incidents in a given year). The data are not presented in a longitudinal format that allows calculations of length of stay by Indigenous status, time to exit-by-exit type, or Indigenous status, and there is no information on re-entry to care.

Recommendation: Development of longitudinal data that allows for calculation of the length of stay in out-of-home care, time to exit-by-exit type, and re-entry to care, by Indigenous status.

REUNIFICATION/RESTORATION

Reunification (or safe return home) is the policy priority for children living in out-of-home care across all jurisdictions (AIHW, 2019d). For Aboriginal and Torres Strait Islander children placed in out-of-home care, safe reunification is the preferred option for protecting a child's right to be brought up within their family and connected to community, culture and country. Although limited evidence exists on the factors associated with reunification, research on out-of-home care in South Australia found that 60% of reunifications could be predicted based on three factors: ethnicity, neglect and parental incapacity (Delfabbro, Barber & Cooper, 2003). Aboriginal and Torres Strait Islander children, children living in rural areas and children who were victims of neglect were significantly less likely to be reunified (Delfabbro et al., 2003).

Reunification requires interagency, targeted, culturally safe supports to ensure that families get the holistic support they need, whether it be assistance with adequate housing, assistance with overcoming substance misuse, or support to address family violence so that children in out-of-home care can be reunified with their families (Lee, Jonson-Reid, & Drake, 2012; Sheets, Wittenstrom, Fong, Tecci, Baumann, & Rodriguez, 2009; Pine, Spath, Werrbach, Jenson, & Kerman, 2009).

Currently, national data are not available on the number of children who exit out-of-home care and are reunified. Data on exits due to reunification and ageing out of care are combined. States and territories were asked by the Family Matters campaign to provide data on the number of children returned home within 12 months and after more than 12 months from admission to a care and protection order. Four jurisdictions provided data on reunification for Aboriginal and Torres Strait Islander children: the Australian Capital Territory, the Northern Territory, South Australia and Victoria.

Figure 3 compares rates of reunification to admissions to care and protection orders in 2017-18 for Aboriginal and Torres Strait Islander and non-Indigenous children in the Australian Capital Territory, Northern Territory,

Ratio of Aboriginal and Torres Strait Islander and non-Indigenous children reunified to birth parents
within 12 months of admission to care and protection order by jurisdiction, 2017-18

Note: Ratio of number of children reunified to birth parents within 12 months of admission to Children admitted to Care and Protection Order,
both in the calendar year.
Source: Data provided by the government of VIC, SA, ACT and NT
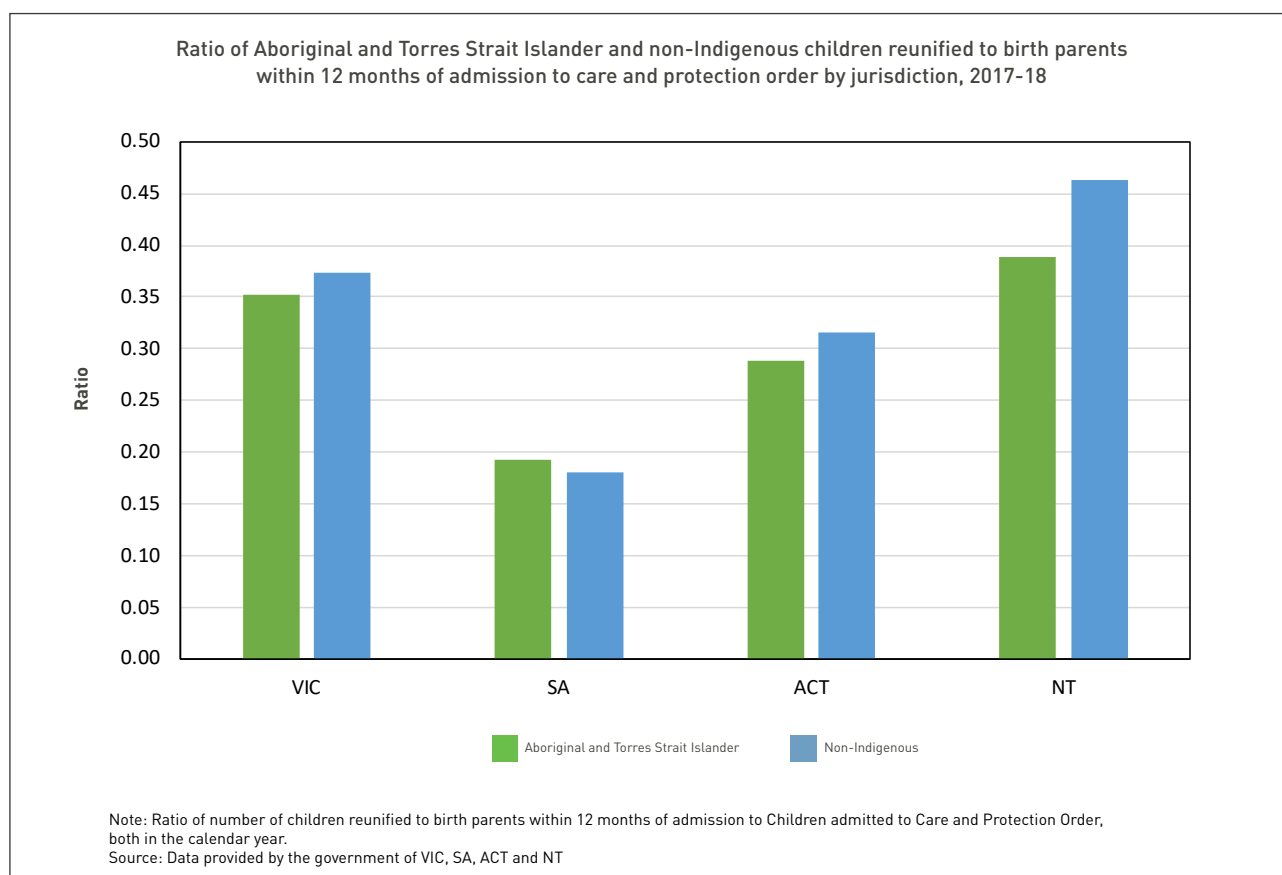
South Australia and Victoria. Aboriginal and Torres Strait Islander children were most likely to be reunified in the Northern Territory, followed by Victoria. The gap between reunification rates for Aboriginal and Torres Strait Islander children and non-Indigenous children was largest in the Northern Territory and smallest in South Australia.

THE IMPACT OF PERMANENCY PLANNING TRENDS

For children placed in out-of-home care, stability of relationships and identity are vitally important to their wellbeing and must be promoted. In recent years, state and territory child protection authorities have increasingly used a range of processes and practices in an apparent attempt to promote stability through longer-term care arrangements for children in out-of-home care. These vary in detail in each jurisdiction but are often broadly described as *permanency planning*. In a number of states and territories, there have been strong trends in policy and legislative reform to increase the focus on, and expedite time frames for, the use of long term, permanency-focused orders by child protection authorities and the courts, including long-term finalised guardianship and custody orders; third-party parental responsibility orders; and adoption orders. Child welfare experts argue that the desire to reduce the financial costs associated with long-term out-of-home care and

artificially decrease shameful child protection statistics have motivated recent permanency planning reforms (Libesman & McGlade, 2018).

Nationally ministers for community services have agreed to adopt *Guiding Principles for Permanency Best Practice* to guide these reforms. The second principle is "compliance with all five domains of the Child Placement Principle ... is supported and measured" (Department of Social Services, 2018). However, as documented throughout this report, there remains high concern that legislation, policy and practice across the country has poor alignment to the intent of the Child Placement Principle, and that in many cases permanency policy runs counter to its intent.

The entrenchment of permanency planning objectives within legislation reflects a focus on *legal permanency*, and is tied to the notion that a legal arrangement can generate a sense of safety and belonging for children in out-of-home care (Parkinson, 2003). The theory underpinning legal permanency suggests that the sooner a court order providing long-term guardianship with a carer can be established, the greater stability can occur, and that this is a better outcome for a child's wellbeing (NSW Family and Community Services, 2018b). However, research from the care and protection sector recognises that a broader definition of permanency encompasses "relational permanency

(positive, caring, stable relationships), and physical permanency (stable living arrangements, and … legal arrangements)" (Tilbury & Osmond, 2006, p. 269). Aboriginal and Torres Strait Islander people commonly question permanency decisions based on a narrow construct of attachment theory that does not recognise the importance of cultural identity development to achieving wellbeing, permanence, and belonging for children.

The Family Matters campaign is deeply concerned that current approaches to permanency planning are not sufficiently attuned to the reality that permanence for Aboriginal and Torres Strait Islander children is developed from a communal sense of belonging; experiences of cultural connection; and a stable sense of identity including knowing where they are from, and their place in relation to family, mob, community, land and culture (SNAICC – National Voice for our Children, 2016).

Permanent care orders risk severing cultural connections in circumstances where children are in placements that are disconnected from their families and communities. A detrimental feature of permanent care orders in many jurisdictions is that there is no legal mechanism to ensure ongoing connection to family, community and culture, particularly for children placed with non-Indigenous carers or Aboriginal or Torres Strait Islander carers from a different community (AbSec, 2018). Even in jurisdictions where safeguards to ensure cultural connection are required – such as cultural support plans – minimal compliance with these directives means that a child's cultural rights are inadequately protected (Commission for Children and Young People, 2017). The Family Matters campaign has called for all jurisdictions to enshrine legislative safeguards to ensure that an Aboriginal agency that understands the child's cultural and kinship connections has the opportunity to assess and recommend whether a long-term order is in the best interests of the child. In Victoria, for example, s.323(2)(a) of the *Children, Youth and Families Act 2005* requires that the Court receive a report from an Aboriginal agency recommending the making of a permanent care order.

Broadly, across all jurisdictions, the hierarchy of permanency objectives are: preservation or reunification with birth parent(s); or a permanent care arrangement either with relatives/kin or another long-term carer.

The figure below sets out the three permanency objectives and the associated care and protection orders, based upon the Australian Institute of Health and Welfare's (AIHW) national mapping of local order types (AIHW, 2016).

PERMANENCY PLANNING OPTIONS

PRESERVATION	REUNIFICATION	PERMANENT CARE
Child remains at home following substantiation of a risk of harm report	Goal is for full parental guardianship/custody of the child to be transferred back to the birth parent, family or former guardian	Child is placed in long-term out-of-home care, or exits out-of-home care

Supervisory Order:
- Custody and guardianship of the child remain with the parents; and
- Order often has specific conditions attached that are relevant to ensuring the protection of the child.

Short-term finalised Guardianship/Custody Order:
- Guardianship and/or custody of the child transferred to the relevant state or territory department or non-government agency; and
- On a short-term order, child has been placed in out-of-home care usually with goal of achieving reunification.

Long-term finalised Guardianship/Custody Order:
- Guardianship/custody of the child is transferred to the state or territory department or non-government agency until the child turns 18 years of age.

Finalised Third-Party Guardianship/Parental Responsibility Order:
- Order transfers all duties, powers, responsibilities authority to which parents are entitled by law to a nominated person(s) whom the court considers appropriate.

Adoption Order:
- Order, made by a competent authority under adoption legislation, by which the adoptive parent(s) become the legal parent(s) of the child.

Policies across Australia limit the time during which reunification can occur and require that a permanency objective be achieved within a specified time following a child being placed in out-of-home care, either through reunification or alternative permanent care (AIHW, 2016). However, these prescribed timeframes are out of step with the realities faced by vulnerable families (Berry Street, 2018). Parents rarely have access to the supports required to address their needs, particularly within the legislated timeframes. A lack of service availability, and particularly culturally appropriate services, and delays in service provisions for families, including waiting lists for housing and other critical services, limit capacity for families to address protective concerns within a narrow timeframe (Fernandez & Lee, 2013; Commission for Children and Young People, 2017). Permanency planning decisions should be based on the best interests of the individual child rather than mandated timeframes.

The impacts of expedited timeframes for pursuing reunification fall disproportionately on Aboriginal and Torres Strait Islander children. Data demonstrate that Aboriginal and Torres Strait Islander children are significantly more likely to be on long-term permanency-focused orders than non-Indigenous children in out-of-home care. As of 30 June 2018, 40% of children who had been in care for two years or longer were Aboriginal and/or Torres Strait Islander (AIHW, 2019d). Length of time in care has a cumulative effect on incidence in care, and thus is a major driver of the level of over-representation in Australia.

A lack of adequate focus on enabling preservation, strengthening family ties, or achieving reunification for children involved in statutory child protection systems across jurisdictions is a major concern in the context of permanency planning. In its review of Victoria's permanency reforms, the Victorian Commission for Children and Young People (2017) found that systemic pressures – including high caseloads for child protection case management practitioners, and inadequate support services to meet families complex needs – prevented many parents from resuming care of the children within the legislated timeframe of two years. Although reunification is recognised as the preferred permanency objective, data from the Victorian review found that there was a 9% drop in the number of reunifications in the six months following the implementation of the permanency amendments (Commission for Children and Young People, 2017, p. 187).

LONG-TERM FINALISED GUARDIANSHIP OR CUSTODY ORDERS

Figure 4 shows that Aboriginal and Torres Strait Islander children are over 12 times as likely to be on a long-term finalised guardianship or custody order than non-Indigenous children. In the majority of jurisdictions, these are considered to be a permanent care arrangement until the child turns 18 with no prospect of reunification. Custody is transferred to the relevant state or territory department or non-government organisation that is responsible for the child's welfare, as well as decisions relating to their education, health, religion, and living arrangements (AIHW, 2016).

States and territories were asked to provide data on the number of Aboriginal and Torres Strait Islander children on finalised guardianship or custody orders who were placed with an Aboriginal and/or Torres Strait Islander carer. Responses were received from four jurisdictions. Where data was provided by states and territories on the proportion of children placed in Aboriginal and Torres Strait Islander residential care, this was excluded.

In the Australian Capital Territory, there were 207 Aboriginal and Torres Strait Islander children subject to a finalised guardianship order at 30 June 2018. Of these, 124 (59.9%) of those children were placed with a relative/kinship carer, and 88 (42.5%) were placed with a relative/kinship carer or other carer who identified as Aboriginal and/or Torres Strait Islander.

In Queensland, 3050 Aboriginal and Torres Strait Islander children were on finalised guardianship or custody orders at 30 June 2018. Of these, 641 (21%) of the Aboriginal and Torres Strait Islander children on finalised guardianship and custody orders, were placed with an Aboriginal and/or Torres Strait Islander relative/kin carer and 451 (14.8%) were placed with non-Indigenous kin, totalling 1092 (35.8%) of children who have been placed with kin. For children in non-relative/kin placements, only 397 (13%) were with other Aboriginal and/or Torres Strait Islander carers.

There were 1147 Aboriginal and Torres Strait Islander children on finalised guardianship orders in South Australia at 30 June 2018. Of these, 607 (52.9%) of these children were living with a relative/kinship carer, and 501 (43.7%) were placed with a relative/kinship carer or other carer who identified as Aboriginal and/or Torres Strait Islander.

Tasmania provided data on the number of children subject to a finalised guardianship order that were not disaggregated by relationship of the carer to the child. There were 958 children on a finalised guardianship order at 30 June 2018. Of the 958 children, 255 (26.6%) were Aboriginal and/or Torres Strait Islander and 397 (41.4%) were non-Indigenous. A further 306 (31.9%) were of unknown Indigenous status, reflecting the poor identification of Aboriginal and Torres Strait Islander status in Tasmania's reporting.

FIGURE 4   Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children on long-term finalised guardianship or custody orders, by jurisdiction, at 30 June 2018

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children on long-term finalised guardianship or custody orders, by jurisdiction, at 30 June 2018

Source: *AIHW*, 2019
Note: NSW data does not show division of short-term and long-term guardianship. National aggregate excludes NSW.
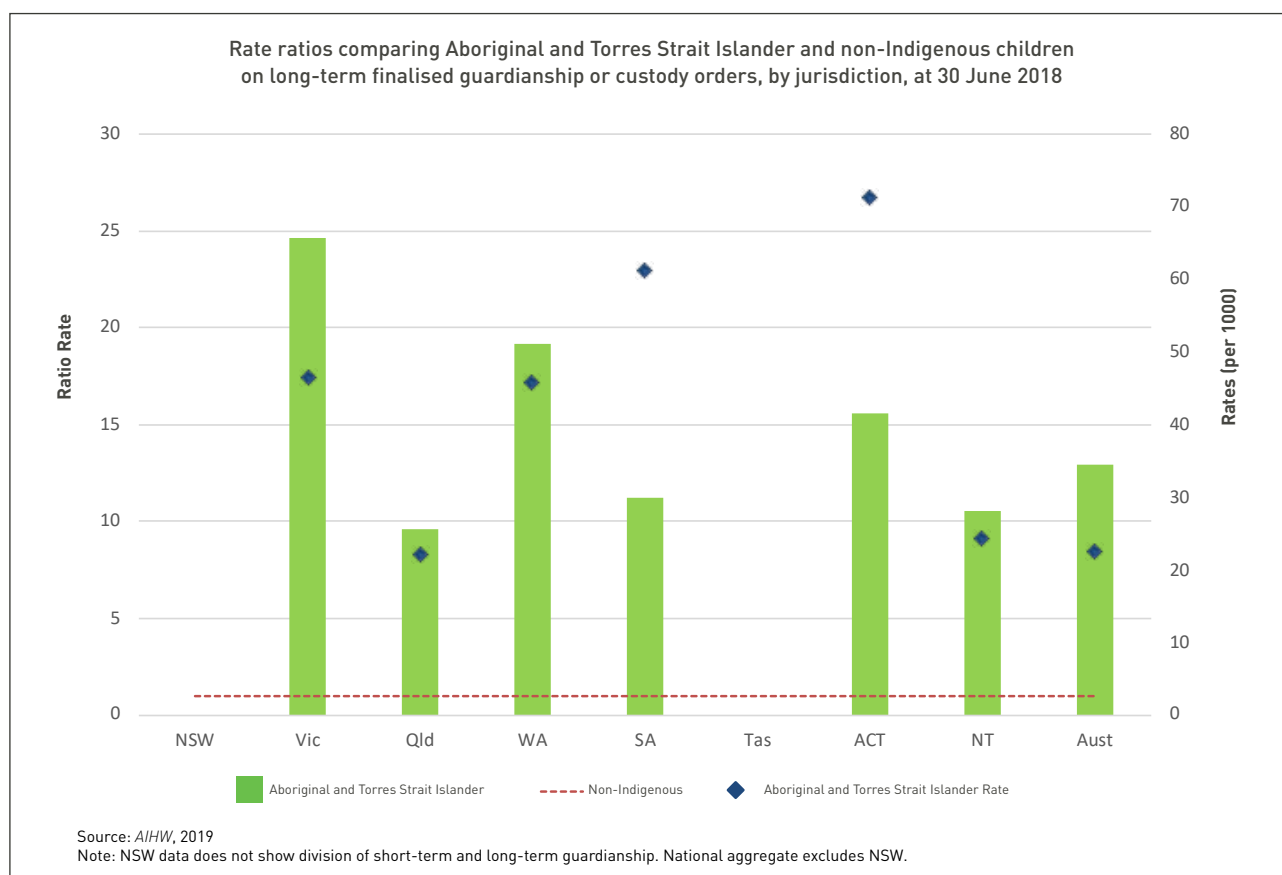
THIRD-PARTY PARENTAL RESPONSIBILITY ORDERS

The granting of a third-party parental responsibility order transfers full responsibility for the child to another person (such as a foster carer) until the age of 18 years, with oversight and support by the statutory agency varying by jurisdiction. These orders are commonly known as permanent care orders. In most jurisdictions, involvement of the statutory agency ceases once a third-party parental responsibility order is in place and birth parents have minimal recourse to seek a review of the order. Permanent carers hold the same rights and responsibilities as a parent for the child and make all the decisions related to the child, including where they will live, health care, religion, and their education. Therefore, there is no guarantee that the Child Placement Principle will be complied with, or that cultural connections for a child will be supported.

CHANGES IN OUT-OF-HOME CARE COUNTING RULES

New South Wales, Victoria and Western Australia have excluded children on third-party parental responsibility orders (permanent care orders) from its out-of-home care population count. The exclusion of children on permanent care orders misrepresents the situation of children who have been removed from their families. The Family Matters campaign is concerned that this change may incentivise the use of permanent care orders to reduce the number of children and young people counted as in out-of-home care, and to reduce the costs and responsibilities for governments in ensuring their quality care. This carries an enormous risk to children's cultural rights and connections because available data indicates that the majority of Aboriginal and Torres Strait Islander children on these orders are placed with non-Indigenous carers.

Across Australia, Aboriginal and Torres Strait Islander children are seven times more likely to be placed on a third-party parental responsibility order than non-Indigenous children. As demonstrated in Figure 5,

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children on
Third Party Parental Responsibility Orders, by jurisdiction, at 30 June 2018
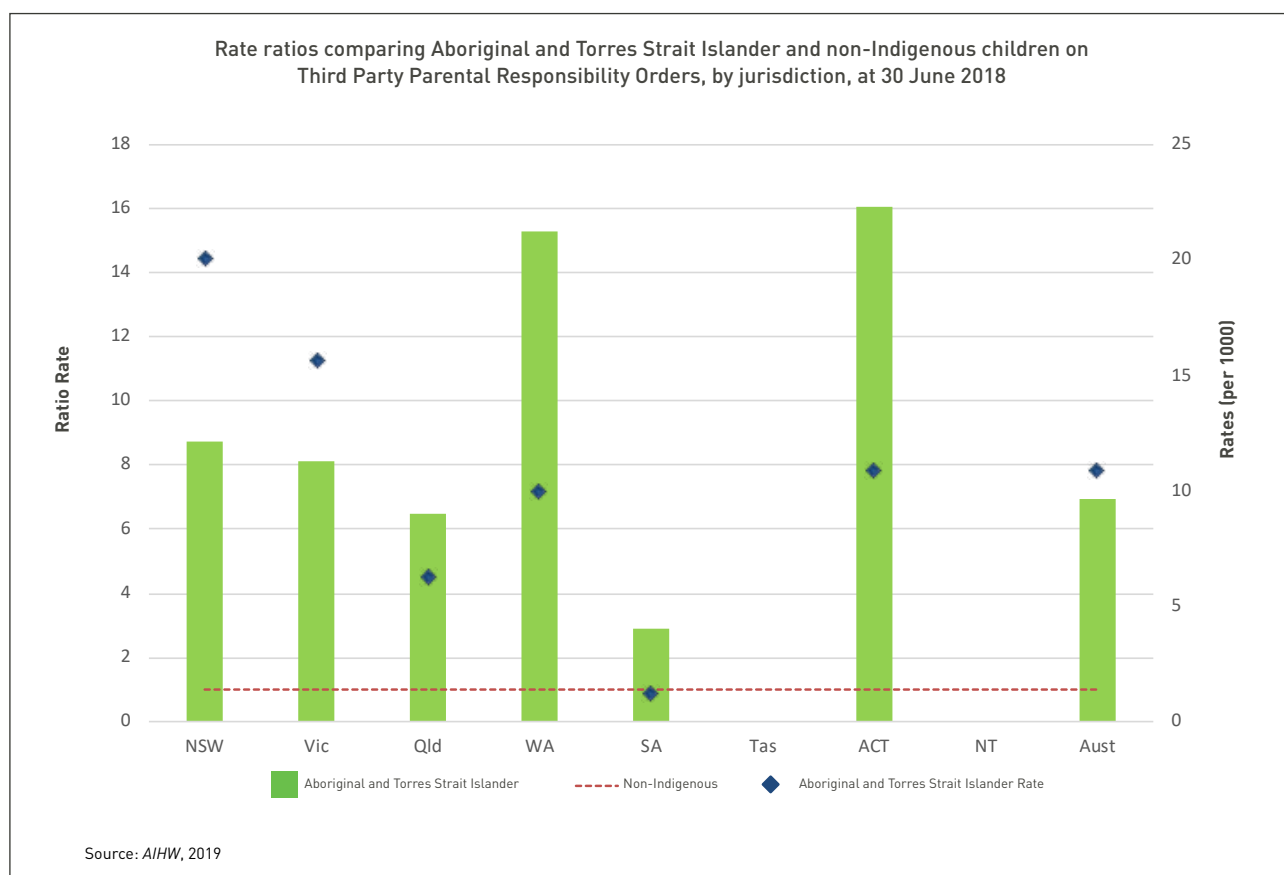
Source: *AIHW*, 2019

in New South Wales and Victoria, Aboriginal and Torres Strait Islander children are over-represented on permanent care orders at rates significantly higher than the national average. Notably, in New South Wales, 14 per 1000 Aboriginal and Torres Strait Islander children were on a third party parental responsibility order, a rate far higher than in any other jurisdiction.

States and territories were asked to provide data on the number of Aboriginal and Torres Strait Islander children on permanent care orders who were placed with an Aboriginal and/or Torres Strait Islander carer. Responses were received from five jurisdictions.

In the Australian Capital Territory, there were 28 Aboriginal and Torres Strait Islander children on permanent care orders at 30 June 2018. Of these, 13 (46.4%) were placed with a relative/kinship carer and only 3 (10.7%) were living with relative/kinship or other carers who identified as Aboriginal and/or Torres Strait Islander.

Victoria provided a breakdown of the number of Aboriginal and Torres Strait Islander children on a permanent care order who were placed with relative/kin and/or with Aboriginal and/or Torres Strait Islander carers. There were 345 Aboriginal and Torres Strait Islander children subject to a permanent care order.

Of these, 203 (59%) of those children were with a relative/kinship carer and 138 (40%) were with a relative/kinship, or other carer, who identified as Aboriginal and/or Torres Strait Islander.

Queensland provided a breakdown of the number of Aboriginal and Torres Strait Islander children on long-term guardianship to other (relative or other suitable person) orders and permanent carer orders who were placed with relative/kin or other Aboriginal and/or Torres Strait Islander carers. At 30 June 2018, 577 Aboriginal and Torres Strait Islander children were on a long-term guardianship to other order. The following percentages were reported in relation to placement: 287 (49.7%) with Aboriginal and/or Torres Strait Islander relative/kin; 243 (42.1%) with non-Indigenous relative/kin; and 10 (1.8%) with other Aboriginal and/or Torres Strait Islander carers. The remainder of children were placed with non-Indigenous carers or in residential care. Permanent care orders came into effect in Queensland in October 2018, in the period between October 2018 and 30 June 2019, there were three permanent care orders made in relation to Aboriginal and Torres Strait Islander children. Two of these children were placed with Aboriginal and/or Torres Strait Islander relative/kin and one was placed with a non-Indigenous carer.

South Australia provided a breakdown by type of placement for Aboriginal and/or Torres Strait Islander children who were placed with relative/kin or an Aboriginal and/or Torres Strait Islander carer. At 30 June 2018, 20 Aboriginal and Torres Strait Islander children were subject to a permanent care order, 14 (70.6%) were placed with a relative/kinship carer and 9 (47.1%) were placed with an Aboriginal and/or Torres Strait Islander relative/kin or other Aboriginal and/or Torres Strait Islander carer.

Tasmania provided data on the number of children subject to a permanent care order at 30 June 2018 that is not disaggregated by relationship of the child to the carer. There were 232 children on permanent care orders, 61 (26.3%) were Aboriginal and/or Torres Strait Islander, 144 (62%) were non-Indigenous and 27 (11.6%) were of unknown Indigenous status.

Data is not currently available to indicate whether independent Aboriginal and Torres Strait Islander advice was provided to inform these decisions about permanency orders (except in Victoria) and how parents were enabled to participate in decisions, in accordance with the partnership and participation requirements of the Child Placement Principle. Part 3 of this report highlights the many gaps in policy and practice in this regard, highlighting the dangers of permanent care decisions that can sever cultural and family connections for children.

ADOPTION

Adoption, including open adoption, means that legal ties between a child and her or his birth family are irrevocably broken. Birth certificates are reissued that reflect adoption orders – birth parent names are replaced by adoptive parent names. Adopted Aboriginal and Torres Strait Islander children may never know about, or experience, their cultural rights and heritage if an adoptive parent determines this is not important. While adoptions of Aboriginal and Torres Strait Islander children are low in number, implications of adoption are life-long. These orders remove any domestic legal responsibility of the state or the child's carer to support a child's cultural connections. In the past year some states and territories have sought to facilitate adoption as a viable option for achieving permanency for children in out-of-home care. Between 2008-09 and 2017-18, adoptions of children in out-of-home care by carers increased by 76% (AIHW, 2018a). All states and territories except Western Australia and Tasmania provided data on the number of Aboriginal and Torres Strait Islander children adopted in 2017-18, with four jurisdictions reporting that no Aboriginal and Torres Strait Islander children had been adopted: Australian Capital Territory, Northern Territory, South Australia, and Victoria.

Data from AIHW indicates that the number of adoptions of Aboriginal and Torres Strait Islander children in 2017-18 was twice that in 2016-17. In 2017-18, nine Aboriginal and Torres Strait Islander children were adopted in comparison with four in the previous

reporting year. Eight of the nine children were adopted by non-Indigenous people (AIHW, 2018a). Although these data are not broken down in a detailed way by the relationship of the adoptive parent to the child, it is reported that 63% of the adoptions in 2017-18 were by the child's foster or kinship carers.

In 2017-18, New South Wales was responsible for 142 of the 147 adoptions by carers in Australia (AIHW, 2018a). According to data provided by New South Wales, six Aboriginal and Torres Strait Islander children were adopted from out-of-home care in 2017-18 – all six children were adopted by non-Indigenous carers. Despite calls from AbSec – NSW Child, Family and Community Peak Aboriginal Corporation and communities for a complete moratorium on adoption for Aboriginal children, the NSW Government has refused to rule out adoption as a permanency planning option (NSW Family and Community Services, 2018a). Indeed, recent legislative amendments passed under the Children and Young Persons (Care and Protection) Amendment Bill 2018 by the NSW Government in November 2018 set a two-year limit on the amount of time a child can spend in out-of-home care. Under the legislation, the Children's Court decides the feasibility of restoration within a reasonable period (not exceeding 24 months), and if determined unfeasible, the Court can make a permanent care order, including adoption. These amendments also enable adoption without parental consent. The New South Wales provisions undermine the very intent of the Child Placement Principle and are deeply flawed in a system that fails to redress systemic disadvantage, ensure access to culturally safe supports, ensure informed Aboriginal decision-making or have independent Aboriginal oversight mechanisms.

1.4 CHILDREN IN OUT-OF-HOME CARE BY 2028: AN ALARMING PROJECTION OF GROWING OVER-REPRESENTATION

The population of Aboriginal and Torres Strait Islander children in out-of-home care is projected to double in size in the next 10 years, by 2028. Not only will the overall number of children in out-of-home care continue to increase, the level of over-representation of Aboriginal and Torres Strait Islander children will increase over time, which means that, if trends continue, an far greater percentage of Aboriginal and Torres Strait Islander children will spend time in out-of-home care. The number of Aboriginal and Torres Strait Islander children in out-of-home care and rates of entry must be substantially decreased immediately, and rates of reunification increased, or the proportion of Aboriginal and Torres Strait Islander children in out-of-home care will continue to increase rapidly.

Regular readers of the Family Matters report will note that for the report this year, we have opted to provide a 10-year projection of out-of-home care populations instead of a 20-year projection as has been provided in previous editions. While a 20-year projection serves as a stark reminder of the severity of the problem,

there is a significantly large variability in the factors that can impact out-of-home care population growth rates across this time span. This is due to a variety of issues, including difficulties in controlling for the high level of uncertainty involved in making assumptions about human behaviour, decision-making, policy, and other contextual factors. This means that such a long projection has to be interpreted considering strict caveats. The already large difference between the Aboriginal and Torres Strait Islander and non-Indigenous populations shown in the 10-year projection is enough to capture the calamitous future if nothing is done to alleviate the growing out-of-home care population for Aboriginal and Torres Strait Islander people, and is more accurate than a 20-year projection.

The dark blue curve in Figure 6 represents the projected population growth of the Aboriginal and Torres Strait Islander out-of-home care population using the average annual growth rate observed in the past five years, and the light blue curve represents the growth of the non-Indigenous out-of-home care population. Because each year's difference is compounded (that is, it gets worse every year), the proportional difference grows larger and more difficult to address with every passing year. Action is required now to bring parity to entries and duration of care for all children admitted to out-of-home care going forward in order to eliminate over-representation. Ultimately, unless the growth rate of the Aboriginal and Torres Strait Islander population in out-of-home care can be quickly and consistently brought to the absolute lowest estimated annual growth rate (bottom of the blue shaded area in Figure 6), successfully addressing over-representation becomes increasingly unlikely. There is significant variation across states and territories in the rate at which the numbers of Aboriginal and Torres Strait Islander children in out-of-home care are increasing. Graphs showing variations and projections for each state and territory are included in Appendix I.

1.5 STATE AND TERRITORY GOVERNMENT RESPONSES TO ADDRESSING DATA GAPS AND ACTIONS TO ADDRESS THE CAUSES AND GROWTH OF OVER-REPRESENTATION

States and territories were asked to provide data to address gap areas to inform the 2019 report. These data are highlighted throughout the report. It is heartening that states and territories responded to the request, providing overall more data than was shared for the 2018 report.

As for previous reports, each state and territory government was invited to provide information about their current strategies, actions, and investments to reduce over-representation. All jurisdictions responded to the request and all responses expressed commitment to the Family Matters campaign, reducing the disproportionate representation of Aboriginal and Torres Strait Islander children in out-of-home care, and improving outcomes for Aboriginal and Torres Strait Islander children and families.

FIGURE 6   Population growth trajectories of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care in Australia, 2018-28

Population growth trajectories of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care in Australia, 2018-28
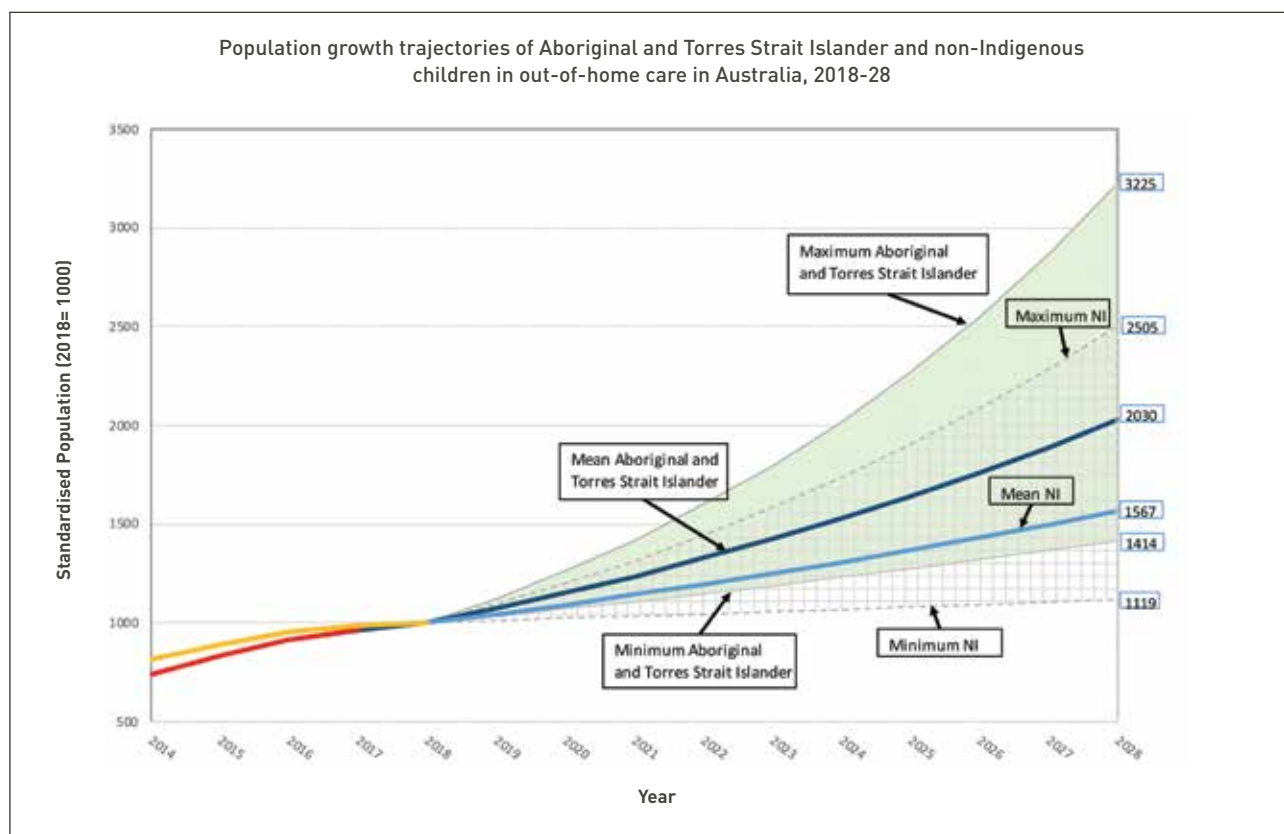
Summaries of responses from states and territories about their efforts to reduce over-representation and support the Family Matters campaign are provided below.

(Note: States and territories were requested to provide a maximum 500-word response. Where significantly greater input was provided (ACT, NSW, WA, Vic.), responses have been summarised to include the introductory text for each initiative and some strategies have been omitted. Full state responses are included on the Family Matters website.)

THE AUSTRALIAN CAPITAL TERRITORY

Aboriginal and Torres Strait Islander Agreement

The ACT Aboriginal and Torres Strait Islander Agreement 2019-2028 (the Agreement) is a significant commitment by the ACT Government, in partnership with the Aboriginal and Torres Strait Islander Elected Body, to achieving the vision of equitable outcomes for Aboriginal and Torres Strait Islander Canberrans. The ACT Government and community partners are committed to self-determination as a guiding principle in the delivery of programs and services. Embedded within the Agreement are Relationship Principles, Core Areas, and an Outcomes Framework to track performance against the core outcomes. Strong families and children and young people are central to the actions to be taken over the 10-year period of the Agreement.

Our Booris, Our Way

The *Our Booris, Our Way* review focuses on systemic improvements to address the over-representation of Aboriginal and Torres Strait Islander children and young people in out-of-home care in the Australian Capital Territory. The review seeks to better understand why Aboriginal and Torres Strait Islander children and young people enter care and to develop strategies to:

- reduce the number of Aboriginal and Torres Strait Islander children and young people entering care
- improve their experience and outcomes while in care
- examine ways for children to return home and remain home safely.

Building Block One: Families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive.

In addition to the specific programs listed below, the Community Services Directorate provides funding to Gugan Gulwan Youth Aboriginal Corporation (Gugan Gulwan) under the Child, Youth and Family Services Program (CYFSP). Services are delivered within an integrated service model targeting vulnerable and in need Aboriginal and Torres Strait Islander children, young people and their families. This service model is a series of intentional interventions that work together in an integrated way to promote safety, permanency and wellbeing of children, young people and families.

Building Block Two: Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children.

Family Group Conferencing

The ACT Government provided $1.44 million over four years in the 2018-19 Budget for the ongoing delivery of Family Group Conferencing, and it continues to be embedded in Child and Youth Protection Services practice with Aboriginal and Torres Strait Islander families. From commencement of Family Group Conferencing in November 2017 to June 2019, 29 families have been involved in a Family Group Conference, involving 69 children and young people. Forty-six Aboriginal and Torres Strait Islander children have not subsequently entered care following a Family Group Conference. For the remaining 23 children, decisions about the best care arrangements have been made by the extended family.

Building Block Three: Law, policy and practice in child and family welfare are culturally safe and responsive.

The ACT Government has committed to initiatives to deliver policy and programs, which are culturally responsive. In addition to the *Our Booris, Our Way* review mentioned above, these initiatives work on implementation of cross-government reform.

Implementation of the Aboriginal and Torres Strait Islander Child Placement Principle at a national level

Community Services Directorate is participating in the national work through the Child and Families Secretaries' meetings to support the implementation of the Child Placement Principle across all states and territories. The ACT is the co-sponsor with Queensland of the Priority One Working Group under the Fourth Action Plan for Protecting Australia's Children. This includes work to develop consistent interpretation of the Child Placement Principle and all five elements that underpin implementation, the performance indicators and measures that will demonstrate success and the process of data collection and reporting on the indicators and measures.

Building Block Four: Governments and services are accountable to Aboriginal and Torres Strait Islander people.

Elected body

The Aboriginal and Torres Strait Islander Elected Body (ATSIEB) members are elected representatives from the ACT Aboriginal and Torres Strait Islander community with a mandate to be a strong voice on issues affecting their communities to the ACT Government.

NEW SOUTH WALES

Strategies

In 2017-18, the Department of Family and Community Services (FACS) continue to make significant shifts to reduce the over-representation of Aboriginal Children and Young People in out-of-home care. In 2018, we reported the development of the Aboriginal Outcomes Strategy and the new approach that would be implemented to improve the outcomes for Aboriginal children and young people, their families and their communities. Whilst we acknowledge that we continue to have areas that we can significantly improve on, we also have the opportunity in 2019 to celebrate some areas that we have made significant growth on since reporting on 2018.

The NSW Practice Framework

The NSW Practice Framework, launched in September 2017, brings together endorsed practice approaches, reforms and research to guide FACS child protection work across systems, policies and practice. United by principles, language and standards, the Framework puts children and families at the forefront of FACS work.

Aboriginal Practice Support team

The Independent Review of Aboriginal Children in Out-of-Home care is nearing completion. The Office of the Senior Practitioner (OSP) has led the FACS aspect of this review process and in anticipation for the release of the report and its recommendations, FACS has agreed in principle to the establishment of an Aboriginal Practice Support team that will sit within the OSP. The structure, role and responsibilities of this team are currently being scoped. While the detail has not yet been determined, the sole focus of this team will be about strengthening FACS practice with Aboriginal families.

Their Futures Matter

Their Future's Matter (TFM)'s Futures Planning and Support (FP&S) initiative will provide mentoring and other support for young people who are leaving or have left out-of-home care from when they are 17 years until they turn 25 years of age (care leavers) and will address the over-representation of Aboriginal young people by ensuring that 40% of the clients being supported are Aboriginal.

Permanency Support Program

FACS is currently undertaking one of the most significant reforms to out-of-home care systems in decades. The Permanency Support Program (PSP) was introduced on 1 October 2017. PSP creates a continuum of care across the delivery of services for children and families and prioritises supporting and maintaining children and young people with family. PSP has changed the way we fund our service providers. PSP funding processes set out new expectations of the sector that include:

- working towards permanency from the time a child or young person enters care
- collaborating more closely with FACS and other services and supports to achieve the best possible outcomes for children and young people
- targeting support packages to address the specific needs of individual children, young people and their families.

Aboriginal Case Management Policy

To support the implementation of the PSP in 2017, AbSec – NSW Child, Family and Community Peak Aboriginal Corporation was commissioned to develop the Aboriginal Case Management Policy (ACMP). The policy statement was published in October 2018 and followed by the Rules and Practice Guidance in February 2019. This policy applies to all Aboriginal children and young whether case managed by FACS or Funded Service Providers.

Child protection legislative amendments

The NSW Government remains committed to working with Aboriginal communities and Aboriginal organisations across NSW to increase Aboriginal self-determination and Aboriginal participation in child protection decision-making. Amendments contained in the *Children and Young Persons (Care and Protection) Amendment Act 2018* that came into effect on 4 February 2019 will help ensure that more Aboriginal children and young people are supported in culturally-safe environments.

Aboriginal families will have greater opportunities to be involved in decisions about the care of their children to reduce the number of Aboriginal children entering out-of-home care e.g. amendments made to Sections 37(1A), (1B), (1C) – Alternative Dispute Resolution.

NORTHERN TERRITORY

Safe, Thriving and Connected: Generational Change for Children and Families is the Northern Territory (NT) Government's implementation plan, addressing recommendations from the Royal Commission into the Protection and Detention of Children and Young People in the Northern Territory (the Royal Commission). This is accompanied by a budget allocation of over $229 million in new funding to strengthen early, targeted support for vulnerable families while also fixing the child protection and youth justice systems.

Universal and targeted services

Territory Families invested $6.5 million in the construction of the Tennant Creek Child and Family Centre – the first of 11 new centres to be built across the Northern Territory over the next five years, investing in fund community-driven activities, which support families with children aged 0 to 5 years. In 2018, Territory Families launched the Family and Children Enquiry and Support (FACES) hotline. This has already resulted in more families accessing crucial supports before they hit crisis point. Through our partnership with Northern Territory Council of Social Service (NTCOSS) we are now expanding the NT Social Services Directory. This online tool provides invaluable information to families about where they can access support and assistance. Territory Families is also developing a community education campaign that will promote early support services, prompt families to ask for help before a crisis and remove the stigma associated with seeking help. Recognising the role of Aboriginal organisations in providing services to Aboriginal families, Territory Families has funded the Aboriginal Medical Services Alliance NT to co-design an early intervention service that can be delivered through Aboriginal medical services.

Participation, control, and self determination

Territory Families is continuing to work with the Mikan Reference Group in East Arnhem to effectively identify and support kinship carers. Mikan is a partnership between Territory Families and Yolngu community representatives in East Arnhem Land and provides advice to Territory Families on the care and protection of Yolngu children. Territory Families' place-based staff are working closely with community elders, local authorities and relevant boards to increase local decision-making in relation to concerns of safety of children and communities. This includes targeted workshops with Aboriginal community-controlled organisations and staff about models and approaches to implement recognition for cultural authority groups or entities to be involved in this decision-making.

Culturally safe and responsive systems

Territory Families developed and is implementing the Aboriginal Cultural Security Framework, which shapes a whole of agency approach to building culturally proficient services, systems, and governance. Over 550 people have contributed to the development of the framework through departmental and external partner and community consultation. The Framework identifies how we can strengthen partnerships with Aboriginal people and communities, promote a workforce that encourages understanding and respect for cultural diversity, and work towards a system where Aboriginal people are empowered to make decisions about Aboriginal families.

Territory Families worked in co-design with a range of stakeholders including Aboriginal community-controlled health and legal services to develop the Care and Protection Amendment Bill 2019, which was introduced to the Legislative Assembly on 20 March 2019 and is due for debate in August 2019. The Bill explicitly recognises the importance of connection to family, culture, language and country for Aboriginal children by introducing new principles for consideration about the best interest of the child; imposing requirements that the Government engages with and provide information to children and families in a manner and language they understand, if necessary through the use of interpreters; improving the rights of families and Aboriginal representatives to participate in care planning processes; ensuring care plans include cultural components; and that notice of court applications is provided to children and families in a language and manner they understand.

Accountability

The Children and Families Tripartite Forum was established in 2018 and provides a forum for structured and sustained high level engagement between the Northern Territory and Australian governments and community sector regarding children experiencing vulnerability, young people and families, and child protection and youth justice issues. The Forum held its first meeting on 23 July 2018 in Alice Springs and has held two further meetings on 15 October 2018 in Darwin and 31 January 2019 in Alice Springs. Membership of the Forum comprises representatives from the Northern Territory and Australian governments, the Aboriginal Peak Organisations Northern Territory (NTCOSS); and North Australian Aboriginal Justice Agency. The Forum is chaired by Donna Ah Chee, Independent Aboriginal Chair.

QUEENSLAND

The Queensland Government, in partnership with Family Matters Queensland is committed to reducing the disproportionate representation of Aboriginal and Torres Strait Islander children and families within the child protection system in Queensland through the implementation of the *Our Way Strategy* and Changing Tracks Action Plans.

Key achievements in 2018-19, include amongst others:

• the establishment of the Queensland First Children and Families Board — a national first

• amendment of the Child Protection Reform Act 2017, commenced in October 2018, which supports the rights of Aboriginal and Torres Strait Islander peoples to self-determination, and embeds the five elements of the Child Placement Principle

• establishment of the Family Participation Program to enhance Aboriginal and Torres Strait Islander family-led decision making across the child protection system

• investment of $34.34 million per annum to roll out all 33 Aboriginal and Torres Strait Islander Family Wellbeing Services across Queensland

• implementation of three Empowering Families Innovation Fund initiatives including:

  - Empowering Families Innovation Grants

  - First 1000 Days Australia initiative, in Moreton Bay and Townsville, supporting families to give their children the best start in life, and eight early childhood development coordinators to improve Aboriginal and Torres Strait Islander families' linkages with the early childhood education and care sector

• implementation of initiatives to strengthen connections with and voices of Aboriginal and Torres Strait Islander children and young people, parents and kin, to support community-controlled sector practice leadership and development, and to develop the cultural capability in the department.

The 12 remaining actions from the first Changing Tracks Action Plan are on track to be completed by the end of 2019. This includes the department partnering with the Queensland Mental Health Commission to contract the Healing Foundation to develop the Aboriginal and Torres Strait Islander Healing Strategy to enhance the social

and emotional wellbeing of Aboriginal and Torres Strait Islander people in Queensland suffering intergenerational trauma, violence and or grief and loss. The department has also contracted Winangali Pty Ltd to co-design a Queensland Aboriginal and Torres Strait Islander Children and Families Wellbeing Outcomes Framework to identify outcomes, indicators and measures to inform investment decisions, align efforts and help track progress towards Our Way's desired outcome for Aboriginal and Torres Strait Islander children and families to achieve parity with non-Indigenous children across agreed wellbeing domains.

The *Our Way Monitoring and Evaluation Plan* has been developed to monitor and assess impact and outcome over the life of the Our Way strategy and supporting Action Plans against key performance indicators. This, along with targeted research projects, will build the evidence base to inform future strategy and investment to reduce the disproportionate representation of Aboriginal and Torres Strait Islander children and families in the child protection system in Queensland. The Queensland First Children and Families Board oversights the implementation and review of the Our Way strategy to ensure it is making a difference for Aboriginal and Torres Strait Islander children and families and recently published its Changing Tracks Progress Report May 2017 — December 2018. The Board has met on three occasions over the past 12 months.

The 2019-20 Budget provided $14.6 million over four years, plus other investments, to implement new and enhanced Our Way initiatives. This builds on the $162.8 million already committed.

The second Changing Tracks Action Plan 2020-22 is currently under development in partnership with Family Matters Queensland, the Board, government and non-government partners and community. It will prioritise actions that strengthen the Aboriginal and Torres Strait Islander community-controlled sector to provide evidence based, early intervention, prevention, reunification and transition initiatives that support Aboriginal and Torres Strait Islander children and families to experience the best possible outcomes.

SOUTH AUSTRALIA

South Australia is committed to reducing over-representation of Aboriginal children and young people in the child protection system in partnership with Aboriginal South Australians. Recent activity includes the following:

- Appointed the first South Australian Commissioner for Aboriginal Children and Young People, who advises and advocates on both systemic and individual issues for all Aboriginal children and young people, with a key focus on health, education, child protection and justice outcomes.

- Established the integrated child and family intensive support system following release of the state government's early intervention strategy. The strategy includes a core focus on improving outcomes for Aboriginal children and their families and commits the government to dedicated support system that adheres to the national Family Matters principles.

- Full commencement of the new child safety legislative framework, which embeds the commitment to participation and family-led decision making. This was accompanied by a commitment of $1.6 million to set up and commission Family Group Conferencing with an emphasis on culturally safe and responsiveness for Aboriginal families.

- Released the *South Australian Government Aboriginal Affairs Action Plan 2019-20* which incorporates a range of commitments including the commitment to the development of the Aboriginal Housing Strategy, implementation of the Aboriginal Education Strategy, and of each agency to develop a Reconciliation Action Plan.

- Finalised a MoAA describing how the Department for Child Protection (DCP) will work with Narungga Nation Aboriginal Corporation (NNAC) to implement child protection commitments contained within the Buthera Agreement between NNAC and the state of South Australia.

- Launched the DCP *Aboriginal Action Plan 2019-20* bringing together related actions within an integrated strategy within the Child Placement Principle framework. This captures a range of activity and commitments including:

  - commitment to increased procurement from Aboriginal organisations from 0.05% to at least 3% of spending

  - engagement of InComPro, an Aboriginal organisation, to deliver a specialised residential care model for Aboriginal young people

  - supported the co-design and trial of an Intensive Family Preservation Service in the Western suburbs delivered by an ACCO

  - commitment to develop a procurement plan for a trial of Aboriginal kinship carer supports provided by Aboriginal organisations

  - increasing partnerships with Aboriginal stakeholders including support for the Family Matters (SA) working group, Reconciliation SA and the SA NAIDOC Committee

  - commitment by DCP to increase Aboriginal employment target from 4.8% to 5.5% in twelve months (towards 10%) driven through the implementation of the new *DCP Aboriginal Employment Strategy*

  - design and implementation of DCP's new *Aboriginal Cultural Footprint* training program, a four-step cultural capability package mandated for all staff

  - development of a Family-led Decision-making and Strengths-based Framework embedding the commitment to self-determination for Aboriginal families

  - development of an Aboriginal-specific National Disability Insurance Scheme (NDIA) pre-planning tool to support access to culturally responsive disability services.

  - commitment to increase the number of completed Aboriginal Cultural Identity Support Tools

  - implementation of the Winangay Aboriginal Kinship Carer Assessment Tool.

- The Department of Child Protection has also:

  - recruited an Aboriginal practice lead and 10 Aboriginal trainees

  - hosted two two-day state forums for all Aboriginal staff to engage on key issues, practice and policy

  - partnered with SNAICC to deliver workshops to DCP staff to increase understanding and implementation of the Child Placement Principle

  - embedded Aboriginal Service Provision requirements across service agreement to increase cultural safety and responsiveness

  - continued to work to ensure DCP has capacity to effectively implement the full aims of the Principle including through the dedicated Aboriginal Practice Directorate

  - developed its first Reconciliation Action Plan due for launch in August 2019.

TASMANIA

The Tasmanian Government shares the Family Matters commitment to eliminating the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 2040. Initiatives that aim to improve outcomes for Aboriginal and Torres Strait Islander children in out-of-home care in Tasmania include:

- Launch of the Strong Families Safe Kids Advice and Referral Line, in December 2018, which commenced a fundamental shift in the way child protection services work in Tasmania. This service created a new 'single front door approach' that enables earlier intervention services for children, young people, and families based on their needs.

- Development of a new Child Safety Practice framework for the Child Safety Service. One of the four key practice elements in the framework is 'Being culturally responsive'. A plan is currently being developed to implement the framework throughout the Child Safety Service.

- Continued trial of the Intensive Family Engagement Service (IFES). IFES provides evidence-based intensive engagement, practical supports and role modelling with families to prevent the need for removal of children. The Tasmanian Aboriginal Corporation (TAC) is one of four statewide IFES providers and is the service provider for families that identify as Aboriginal or Torres Strait Islander. A further $7.5 million has been committed over the next three years for additional intensive family engagement services to better support families, including Aboriginal and Torres Strait Islander children.

- Delivery of the listening with our takila project, by Leprena, the Uniting Aboriginal and Islander Christian Congress, which built upon the work of ya pulingina kani through shared stories of empowerment and healing from survivors of family violence in the Aboriginal community. The project included a series of activities and events including gatherings on country, co-delivered workshops with Engender Equality, mental health first aid training, and an eight-week TasTAFE / Aboriginal training arts course to engage participants and promote family safety messaging.

- Delivery of a speaking tour by the Tasmanian Aboriginal Corporation to the Aboriginal community about mental health, suicide prevention and wellbeing by prominent Aboriginal man, Joe Williams. This program was considered to address the broader topic and support the safety of Aboriginal families. The tour delivered five sessions statewide including two youth-specific sessions (two in Hobart, two in Launceston and one in Burnie) to 74 participants.

- Release of a consultation paper for a Permanency Framework, which focused on the National Permanency Guiding Principles, inclusive of Principle 2 *Compliance with all five domains of the Aboriginal and Torres Strait Islander Child Placement Principle is supported and measured.* A draft framework will be developed and provided for further consultation in late 2019.

- Release of the *Tasmanian Child and Youth Wellbeing Framework* in June 2018, which provides a contemporary and accessible definition of child wellbeing to ensure that Tasmania's service system, including the broader community, has a strong, common understanding of child and youth wellbeing. This includes "having a positive sense of culture and identity". A range of practical tools are being developed to support this work, including the Child and Youth Wellbeing Assessment Tool and Service Directory.

- Development of an *Outcomes Framework for Children and Young People in Out of Home Care* released by the Minister on 18 October 2018. Work continues to develop a Companion Document that defines an approach to monitor and report against the Outcomes Framework.

- External and independent monitoring of the out-of-home care system by the Commissioner for Children and Young People, funded by the Government over a three-year period. The Commissioner for Children and Young People released *Laying the Foundations: A Conceptual Plan for Independent Monitoring of Out-of-Home Care in Tasmania* outlining how independent and external monitoring of the Out of Home Care system from 2018-19 onwards will be undertaken.

VICTORIA

The Victorian Government is committed to improving the safety and wellbeing of Aboriginal children and families and to reducing the over-representation of Aboriginal children in care. The government has implemented a range of initiatives to address over-representation.

The Roadmap for Reform: children and families

Roadmap for Reform is the Victorian Government's blueprint for transforming the child and family system: focusing on earlier intervention and prevention; reducing vulnerability; and equipping children to reach their full potential.

Underpinned by Aboriginal self-determination and self-management the *Roadmap for Reform* provides opportunities to develop new models of care and more connected pathways of care that support cultural connection and improve outcomes for Aboriginal children, young people and families. For example, with the establishment of the new Aboriginal kinship finding service, the Government will better support children who cannot live with their parents in kinship placements, strengthen reunification where appropriate, and promote placement stability.

Aboriginal Children's Forum

Operating since 2016 and held quarterly, the Aboriginal Children's Forum (ACF) is convened by the Minister for Child Protection and co-chaired with a nominated chief executive officer from an Aboriginal community-controlled organisation (ACCO). The forum brings together ACCOs, community service organisations (CSOs) and Department of Health and Human Services (DHHS) staff to respond to the over-representation of Aboriginal children in care by delivering on priorities identified in the submission *Koorie Kids: Growing Strong in their Culture*. From June 2018, the ACF has adopted the priorities and actions outlined in the *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement.*

Wungurilwil Gapgapduir: Children and Families Agreement

Wungurilwil Gapgapduir: Children and Families Agreement signed by the then Minister for Families and Children, and Aboriginal and community representatives on 26 April 2018, sets out a vision for the future where all Aboriginal children and young people in Victoria are safe, resilient and thriving and living in culturally rich and strong Aboriginal families and communities.

The 2018-19 Victorian Budget allocated $53.3 million to support implementation of *Wungurilwil Gapgapduir* and the 2019-20 budget added an additional $23.7 million to implementing the Agreement.

Transfer of case management and funding from non-Indigenous providers to ACCOs

In partnership with the ACF the department continues transferring case management of Aboriginal children subject to child protection orders and resources to ACCOs. The department has agreed to targets set by the ACF to transfer case management of all Aboriginal children in care to ACCOs by the end of 2021. At June 2019, 708 (46%) of Aboriginal children and young people on a contractible order in care were managed by an ACCO. This is an increase of 250% since August 2017.

Aboriginal Children in Aboriginal Care

The *Children, Youth and Families Act 2005,* Section 18, enables the Secretary of the Department of Health and Human Services to authorise the Aboriginal principal officer of an Aboriginal agency to undertake specified functions and powers in relation to a Children's Court protection order for an Aboriginal child or young person. A*boriginal Children in Aboriginal Care,* the operationalisation of Section 18, is a key provision supporting the principle of Aboriginal self-management and self-determination. Aboriginal Children in Aboriginal Care launched in 2017 at the Victorian Aboriginal Child Care Agency (VACCA), has expanded in 2019 at the Bendigo and District Aboriginal Co-operative, where the service is known as Mutjang Bupuwingarrak Mukman, which means 'keeping our kids safe' in Dja Dja Wurrung language.

Aboriginal Kinship Finding Service

Following an invited call for funding, VACCA in partnership with the First Nations Legal and Research Services and the Koorie Heritage Trust was selected to provide an Aboriginal Kinship Finding Service. The new service includes the establishment of a genealogical database to support early kinship carer identification and connections to family, community and culture for Aboriginal children and young people involved with the Victorian child protection system.

Improving responses to Aboriginal children – cultural planning

An independent evaluation was undertaken on the new model for cultural plans implemented in 2017. The evaluation found support for the new model and promotes additional guidelines for practitioners and revised templates for cultural plans. The 2018-19 State Budget allocated $11.9 million over four years to continue the new model of cultural planning, thereby supporting the new model to become an ongoing program.

WESTERN AUSTRALIA

The Western Australian (WA) Government is committed to creating opportunities for Aboriginal and Torres Strait Islander children, young people and their communities. In February 2019, Premier Mark McGowan announced the Government's Our Priorities Sharing Prosperity program. Our Priorities outlines six key outcome areas, which aim to deliver better outcomes for all Western Australians. Two of the key outcome areas, 'A Bright Future' and 'Aboriginal Wellbeing', set out tasks to implement real, positive change for Aboriginal and Torres Strait Islander children.

Aboriginal Services and Practice Framework 2016 – 2018

The Aboriginal Services and Practice Framework 2016 – 2018 (the Framework) has been integral to the work underpinning the child protection reforms within Western Australia to improve outcomes for Aboriginal children and families. Options are currently being explored regarding a future Framework, which will incorporate current projects and strategies and reflect the Western Australian Government's focus on integrated service design.

Aboriginal Advisory Panel

An Aboriginal Advisory Panel to the Minister for Child Protection; Women's Interests; Prevention of Family and Domestic Violence; Community Services, is under development and will convene in 2019 to provide cultural and expert advice to inform government decisions affecting Aboriginal children, families and communities.

The Early Years Initiative

The Early Years Initiative is an unprecedented 10-year partnership between the Government of Western Australia, Minderoo Foundation and the Telethon Institute. $49.3 million has been invested in the Early Years Initiative, which responds to research indicating that one in five children aged four years and under in Western Australia is considered developmentally vulnerable, as measured by the Australian Early Development Census.
It supports local communities to implement a range of evidence-based changes to make better use of existing services and supports for families with young children.

Regional Services Reform

The East and West Kimberley District Leadership Groups continue to work with government, service providers, Aboriginal organisations and local leadership to find solutions to complex local issues and to help improve the wellbeing of families in the Kimberley. The District Leadership Groups include representatives from state and Commonwealth governments, local government, the community services sector, ACCOs and industry.

West Pilbara Plan

The Western Australian Government continues to work closely with Aboriginal elders and community members. Under the West Pilbara Plan, the Government has committed to focus a collectively and coordinated approach in six priority areas.

Building Safe and Strong Families: Earlier Intervention and Family Support Strategy

The procurement of the Intensive Family Support Services, Family Support Networks, and the Aboriginal In-Home Support Service are key elements of the Early Intervention and Family Support Strategy which focuses on four areas:

- delivering shared outcomes through collective effort
- a culturally competent system
- diverting families from the child protection system
- preventing children entering out-of-home care.

Statutory Review of the Children and Community Services Act 2004

The recommendations of the Statutory Review align with the Department of Communities' current work to review the Permanency Planning Policy and related practice guidance. The Department of Communities is finalising its *Stability and Connection Policy,* to replace its *Permanency Planning Policy.* Stability and connection planning concerns much more than a child's care arrangement. It includes alignment will all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle and a focus on relational permanence. Linked closely with this policy and relevant legislative recommendations, further work is occurring in relation to cultural support planning, which is identified as an important mechanism for improving outcomes for Aboriginal and Torres Strait Islander children.

Building a Better Future: Out-of-Home Care Reform in Western Australia

The Out-of-Home Care Reform Project Reference Group (the Reference Group) is to provide advice and support on the design and implementation of a better out-of-home care and family support system within Western Australia.

Aboriginal Family Safety Summit

In February 2019, the Aboriginal Family Safety Summit (the Summit) was held by the Department of Communities with experts and leaders in Aboriginal family safety to determine next steps for progressing a dedicated approach to Aboriginal family safety. The Summit is part of the Department of Communities' *10 Year Strategy for Reducing Family and Domestic Violence.*

PART 2

DATA ON ECONOMIC, SOCIAL AND COMMUNITY LEVEL FACTORS

2.1 OVERVIEW

Part 2 of this report focuses on the structural factors that contribute to, and the drivers of vulnerability for children and families. It reports on both service access and measurable outcomes across domains that impact most on safety, development and wellbeing for Aboriginal and Torres Strait Islander children.

Human development is a result of the interaction between a variety of factors that are inherited from ancestors and that are present in the environment in which children grow and develop (Moore et al., 2017). Evidence demonstrates that the period from conception through the early years of a child's life is critical in providing strong foundations for lifelong physical and mental health, and social and emotional wellbeing (Ritte et al., 2016). When children do not feel safe, calm or protected, the child's opportunities for learning are constrained. There is a cumulative negative effect on learning and development when children are exposed to adverse environments and experiences early in their lives, and continue to be exposed to such experiences (Moore et al., 2017).

Aboriginal and Torres Strait Islander child wellbeing includes safety, health, culture and connections, mental health and emotional wellbeing, home and environment, learning and skills, empowerment and economic wellbeing. These wellbeing domains are inter-related – for example, having access to material basics is essential to full participation in learning and education, which contributes to safety and security. Achievement of wellbeing outcomes depends on a complex interplay between individual child and family factors and broader community and societal factors, which means focusing on just one wellbeing domain to the exclusion of others will compromise overall child wellbeing. Ensuring children grow up safe and cared for requires commitments and actions from multiple sectors (Council of Australian Governments, 2009).

The range of personal, family and social life issues faced by parents and carers experiencing vulnerability can prevent them from providing the positive, safe and nurturing care environment that is needed for a child. There are a variety of factors that may bring children and families to the attention of child protection agencies. For Aboriginal and Torres Strait Islander families, the drivers of child protection involvement are a consequence of the economic, social and political contexts in which families live (UNICEF, 2010). Poverty, housing suitability and stability are described in this section as structural drivers of child protection intervention. These structural drivers are themselves the consequence of broader factors relating to historical and continuing racism and discrimination, including particularly the inter-generational harm caused by forced child removals of the Stolen Generations.

> There needs to be education on the **true** history of Australia and our Aboriginal culture, including policy detrimental to our development and generational trauma. We need more prevention services that work with families to prevent child removals, and opportunities for parents to gain education prior to removal around parenting and child abuse. We need teachers in rural and remote communities to be more passionate about educating our people, instead of coming to do placements and receive the benefits and then leaving. I also believe governments need to take more responsibility for the wellbeing of our families, for example, there needs to be more government support services for mothers of all ages. – Wilyakali woman, Broken Hill, 24 years old

There is clear evidence that prevention and early intervention services have positive impacts on children's health and wellbeing. Family interventions are more effective when applied early in children's lives (Allen, 2013; Fox et al., 2015; Heckman, 2008). Whole-of-population preventative measures not only improve family capabilities and community wellbeing, but also have a downstream effect in reducing risk, harms and child maltreatment. Quality services which are initiated during pregnancy, and continue throughout the early years of life, can improve child developmental and wellbeing outcomes, shift developmental delays, and contribute to population-level outcomes.

Investment in **primary prevention** and **early intervention** to strengthen families can provide long-term social and economic benefits by disrupting trajectories that lead to adverse adult outcomes.

This section describes the extent to which children and families access high-quality universal and targeted services. Available information is included on access to relevant services, as well as data on key child outcomes targeted by these services. The thematic areas addressed are identified because of the evidence that indicating that they are the most active or commonly identified issues impacting on a child's development, wellbeing and safety. They include: maternal child health, early childhood education and care, family support services, drug and alcohol rehabilitation services, family violence responses, and mental health supports.

> **CHILDREN IN STOLEN GENERATIONS HOUSEHOLDS EXPERIENCE THE IMPACTS OF INTERGENERATIONAL TRAUMA**
>
> Building on its 2018 report exploring the impacts of child removal on members of the Stolen Generations and their descendants, a 2019 report by AIHW and the Healing Foundation (2019e) examines health and wellbeing outcomes for Aboriginal and Torres Strait Islander children aged under 15 who live in households with members of the Stolen Generations. The selected outcomes factors associated with familial vulnerability includes poor health, poverty and truancy.
>
> The findings indicate that children living in a household with members of the Stolen Generations were 4.5 times as likely to have missed school without permission in the last 12 months, 1.8 times as likely to have poor self-assessed health and 1.6 times as likely to live in household with cash-flow problems in the last 12 months. Children living in households with members of the Stolen Generations fared better on two indicators related to cultural connection. These children were twice as likely to identify with a clan/tribal/language group and/or to recognise a homeland.

2.2 STRUCTURAL DRIVERS OF CHILD PROTECTION INTERVENTION

a) Poverty

There is a growing body of evidence demonstrating the relationship between family poverty and the risk of being subject to child protection intervention (Jonson-Reid, Drake & Zhou, 2013; Morris et al., 2018; Slack, Holl, McDaniel, Yoo & Bolger, 2004). It is now well established that children growing up in poverty are more likely to experience adverse child experiences that are linked to child welfare involvement (Hughes, 2018). Research demonstrates that families living in poverty experience maternal distress, family violence, reduced parental responsiveness and increased use of corporal punishment (Bradley & Corwyn; Conger & Donnellan;

2007 in Moore et al., 2017). A child's quality of care, the availability of learning opportunities and his or her exposure to a wide range of stressors are all associated with experiencing poverty (Moore et al., 2017).

For Aboriginal and Torres Strait Islander communities, high rates of poverty stem from experiences of colonisation, discrimination, forced child removal, and the inter-generational impacts of resulting trauma (The Healing Foundation, 2013). Linked with experiences of poverty, Aboriginal and Torres Strait Islander families are over-represented amongst families subjected to contemporary income management policies and programs, including the ParentsNext program, that further contribute to disempowerment of communities (as discussed in Part 3 of this report). For Aboriginal and Torres Strait Islander children, adverse experiences in childhood are often shaped through their connection to adults and communities that are dealing with the negative impacts of history, including dispossession and cultural identity loss, as well as directly through exposure to violence, abuse and neglect that occur more commonly in communities experiencing poverty and disadvantage (Atkinson, 2013). In particular, neglect is far more commonly the primary reason for substantiation of harm for Aboriginal and Torres Strait Islander children than for non-Indigenous children (AIHW, 2019c), reflecting the significant challenges for families to access the resources and supports needed to provide safe care.

There are a number of measures used to assess levels of poverty. Examining the level of socio-economic disadvantage amongst Aboriginal and Torres Strait Islander households is one measure that provides an indication of the extent to which families are experiencing poverty. The Australian Bureau of Statistics produces a national population distribution as determined by the Socio-Economic Indexes for Areas (SEIFA) derived from Census data. SEIFA ranks areas across Australia according to relative socio-economic advantage and disadvantage. The distribution of the non-Indigenous population is spread evenly across the SEIFA deciles. The 2016 Census data show that Aboriginal and Torres Strait Islander people are more likely to live in the most disadvantaged areas, with 48% living in the bottom fifth most disadvantaged areas, compared to 18% of non-Indigenous people. In 2016, only 5.4% of Aboriginal and Torres Strait Islander people lived in areas of high relative advantage, compared with 22% of non-Indigenous people (ABS, 2018).

Data about income poverty provides another useful measure for assessing levels of poverty among Aboriginal and Torres Strait Islander peoples. The poverty line is defined according to when a household's disposable (after-tax) income falls below a threshold considered to be adequate to provide the basic necessities of life (Australian Council of Social Services, 2018). Based on 2016 Census data, Markham and Biddle (2018) use the modified OECD equivalence scale that defines the poverty line as half the median income

of the total population. On this measure, the poverty line in 2016 was $404 per week before housing costs. Markham and Biddle's (2018) analysis demonstrates that nearly one in three (31.4%) Aboriginal and Torres Strait Islander peoples were living below the poverty line.

> ## DATA GAP
>
> **ABORIGINAL AND TORRES STRAIT ISLANDER CHILD POVERTY RATES**
>
> There is currently no nationally available date on rates of poverty among Aboriginal and Torres Strait Islander children, despite a growing body of evidence indicating that, on the whole, Aboriginal and Torres Strait Islander people are more likely to live in poverty than non-Indigenous people.
>
> **Recommendation:** That nationally consistent data be collected and reported on rates of poverty among Aboriginal and Torres Strait Islander children.

b) Housing (homelessness and housing affordability)

Access to safe and healthy housing environments has a substantial impact on the capacity of families to provide safe and supportive care for children (Courtney, Dworsky, Piliavin, & Zinn, 2005; Dworsky, Courtney, & Zinn, 2007; Evans, 2006; Slack, Lee & Berger, 2007). Housing refers not only to a physical dwelling, but the social environment within which it is situated. The physical condition includes a house's state of repair, plumbing, running water and ventilation. The social dimensions of housing include the factors that influence one's sense of control over their home (affordability, security and tenure type) and the domestic environment (sense of personal safety and overcrowding) (National Collaborating Centre for Aboriginal Health, 2017). Housing quality, affordability, location and appropriateness are all important determinants of health and wellbeing. Problems with housing – for example, homelessness, mortgage and rental stress, and unstable housing tenure – are indicative of the types of vulnerability and risk that can lead to children coming to the attention of child protection authorities (AHURI, 2012). Moreover, housing problems make it more difficult for children to be reunified with their family, if they are removed.

Among the factors that most impact the safety and wellbeing of children is housing affordability (AHURI, 2014). The financial burden and insecurity associated with a lack of affordable housing result in significant stress on families that can negatively impact family functioning (Robinson & Adams, 2008). Indeed, studies have demonstrated that housing insecurity places children at risk of abuse and neglect (Leslie, 2005; Warren & Font, 2015). Rental stress is one

measurement used to assess affordability and is defined as paying more than 30% of household income on rent payments (ABS, 2018). **The 2016 Census determined that Aboriginal and Torres Strait Islander householders are almost twice as likely to experience rental stress as non-Indigenous households.**

Data from the 2016 Census indicates that Aboriginal and Torres Strait Islander children represent 25% of the total Aboriginal and Torres Strait Islander homeless population while non-Indigenous children comprised only 11% of the non-Indigenous homeless population (AIHW, 2019a). The burden of homelessness on Aboriginal and Torres Strait Islander peoples is further reflected in their usage of specialist homelessness services across Australia. In 2017-18, one in four (or 65, 200) individuals who accessed specialist homelessness services identified as Aboriginal and/or Torres Strait Islander (AIHW, 2019a). Aboriginal and Torres Strait Islander people return more often to services than non-Indigenous people and the period of support is getting longer, and is longer than for non-Indigenous people. The disparity between the rates of Indigenous and non-Indigenous clients accessing homelessness services in Australia continues to increase (Figure 7). In 2017-18, across Australia, clients accessing homelessness services were 9.4 times more likely to be Indigenous, up from a rate ratio of 7.8 in 2011-12. It is concerning that Aboriginal and Torres Strait Islander children continue to be over-represented as clients of specialist homelessness services. In 2017-18, Aboriginal and Torres Strait Islander children aged 0 to 5 years made up the largest group of Aboriginal and Torres Strait Islander clients. Furthermore, 25% of Aboriginal and Torres Strait Islander clients reported that family violence – an identified high-risk factor for child abuse and neglect – is the primary reason for accessing specialist homelessness services, in comparison with 23% in 2016-17.

While the disparity in accessing specialist homelessness services amongst Aboriginal and Torres Strait Islander and non-Indigenous clients has remained relatively stable over the past year (Figure 7), for Aboriginal and Torres Strait Islander people in remote and very remote areas, it continues to widen (Figure 8). The disparity dropped in 2016-17 to Aboriginal and Torres Strait Islander people being 17.7 times more likely than non-Indigenous people to access a service in a remote or very remote area, but has climbed to 18.6 times more likely in 2017-18.

FIGURE 7   Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous clients accessing specialist homelessness services in Australia, 2011-18

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous clients accessing specialist homelessness services in Australia, 2011-18
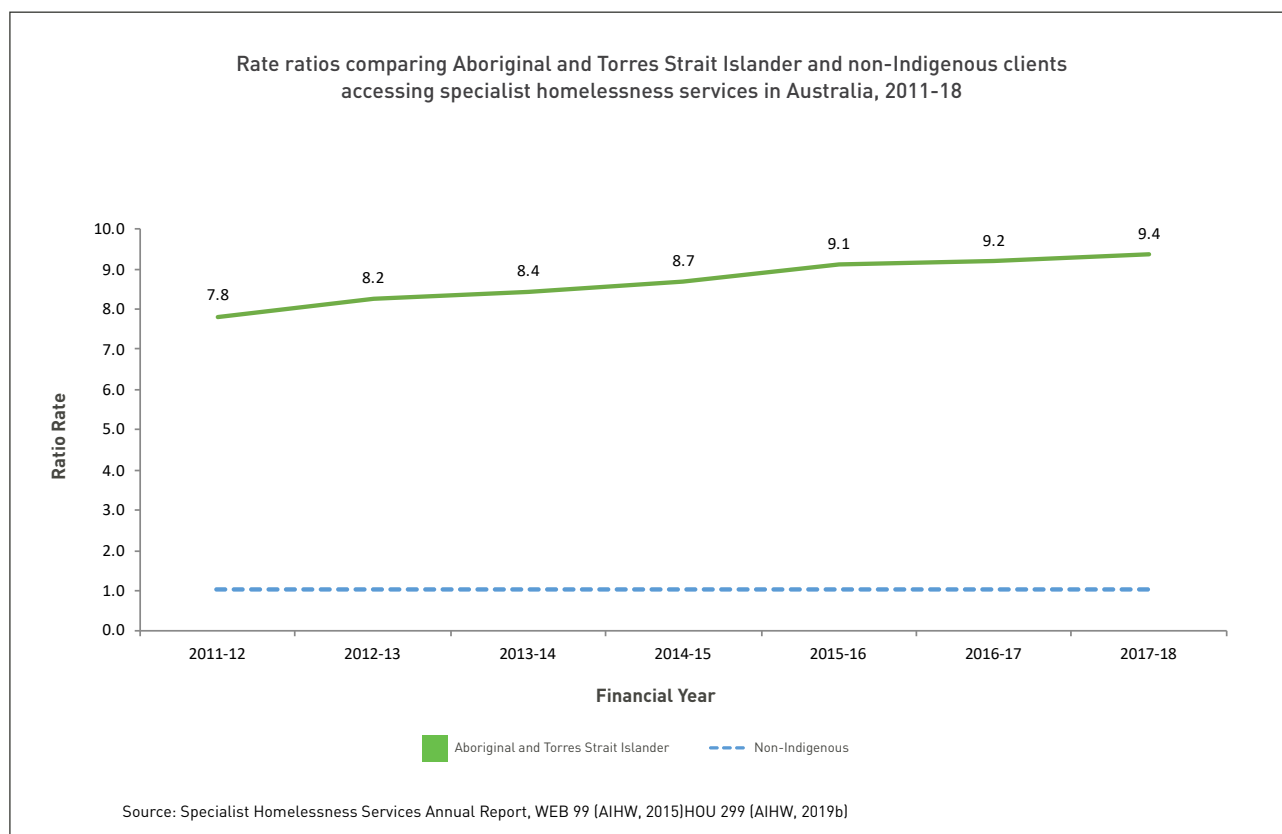
Source: Specialist Homelessness Services Annual Report, WEB 99 (AIHW, 2015)HOU 299 (AIHW, 2019b)

FIGURE 8   Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous people accessing specialist homelessness services by remoteness in Australia, 2011-18
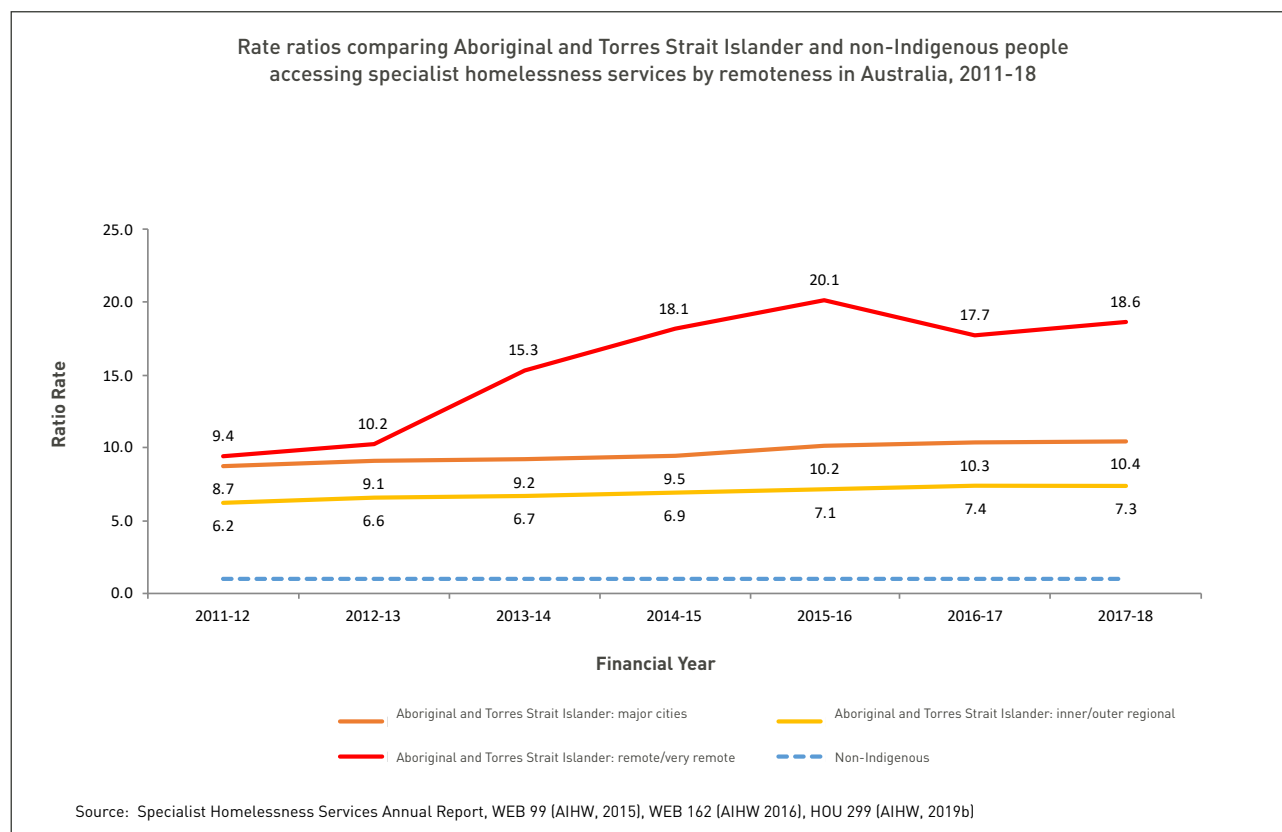

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous people accessing specialist homelessness services by remoteness in Australia, 2011-18

Source: Specialist Homelessness Services Annual Report, WEB 99 (AIHW, 2015), WEB 162 (AIHW 2016), HOU 299 (AIHW, 2019b)

2.3 ACCESS TO QUALITY, CULTURALLY SAFE UNIVERSAL AND TARGETED SERVICES

Family Matters Building Block 1 is "All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive". As discussed in the introductory section to this chapter, the provision of high quality services that support family strengthening can increase the likelihood of parents being able to provide safe and nurturing care for their children and prevent risk factors that may lead to child protection involvement (Centre for Community Child Health, 2018). The extent to which children and families have access to, and receive, high-quality universal and targeted services is described in this section. Available information is included on access to relevant services, as well as data on the child outcomes that these services aim to improve.

a) Maternal and child health

Inequality starts early for children. Pregnancy, birth and early childhood are critical transition periods for families, especially mothers and infants, and present a time of great opportunity for healthy growth, learning and development, as well as to reduce vulnerabilities associated with child protection notifications (Holland, 2015).

While most Aboriginal and Torres Strait Islander women, infants and families do well and thrive, there remain significant proportions of poor maternal outcomes, perinatal outcomes, and infants who do not get the best start to life. For expectant mothers, experiences of disadvantage are closely linked to a range of factors that affect the healthy development of children during pregnancy and early in a child's life. Key factors that negatively impact child development at this critical stage include domestic violence, psychological

stress, substance misuse, and poor nutrition (Gibberd et al., 2019; Moore et al., 2017).

Despite these heightened risks, women from the most disadvantaged areas, and particularly those living in rural and remote areas, are also the least likely to access critical antenatal care. This is particularly evident during the first trimester when risk of harm to the foetus is heightened and where service links and referrals are best established (Moore et al., 2017).

Antenatal care is an important step in establishing a trusted relationship between the Aboriginal and Torres Strait Islander family and service professionals, and can be a critical pivot in the trajectory of an infant's life as it opens the door to many other services on referral – not just maternity services. Regular antenatal care that commences early in pregnancy has been found to have a positive effect on health outcomes for mothers and infants (Eades, 2004; Australian Health Ministers Advisory Council [AHMAC], 2012; Arabena et al, 2015).

Antenatal care is especially important for Aboriginal and Torres Strait Islander women who are at higher risk of giving birth to pre-term and low-birthweight babies, and who have greater exposure to other risk factors and complications such as anaemia, poor nutrition, chronic illness, hypertension, diabetes, smoking, and high levels of psychosocial stressors (de Costa & Wenitong, 2009; AHMAC, 2012).

A number of risk factors experienced by Aboriginal and Torres Strait Islander women during pregnancy, including family violence and substance misuse, are also associated with a heightened risk of pre-birth notifications to child protection (Taplin, 2017). Evidence indicates that Aboriginal and Torres Strait Islander infants less than one year old are being removed and placed in out-of-home care at increased rates (O'Donnell et al., 2019). The provision of early intervention supports to vulnerable families during pregnancy, including antenatal care, is a crucial opportunity to address risk factors that place them at risk of child protection involvement and prevent the removal of Aboriginal and Torres Strait Islander children at birth.

CENTRAL AUSTRALIAN ABORIGINAL CONGRESS' NURSE FAMILY PARTNERSHIP PROGRAM AND FAMILY SUPPORT SERVICES, NORTHERN TERRITORY

Central Australian Aboriginal Congress (Congress) provides a range of child and family services, including evidence-informed early childhood health and development programs and parenting and family support programs.

Family Partnership Program

Congress' Family Partnership Program (FPP) is run in partnership with the Australian Nurse-Family Partnership Program. It is a voluntary maternal and child home visiting service for mothers of Aboriginal children (during pregnancy and up to two years post birth). Nurses and Aboriginal community workers support mothers to: stay healthy during pregnancy, make their homes safe for them and their families, access relevant services, set goals and work out ways to reach them, develop job skills or continue education and connect with other mothers.

A 2018 study of the program showed that it has had a major impact on preventing child neglect and Aboriginal children entering out-of-home care. From 2009 to 2015, compared to matched controls, children of families on the program were 62% less likely to have any episode of substantiated neglect and the children of first-time mothers were 94% less likely to spend any annualised days in out-of-home-care.

In addition to the FPP, Congress' family support services aim to prevent child neglect and entries into out-of-home care by working with highly vulnerable families, using evidenced-informed programs focused on primary and secondary prevention. In 2018 Congress provided a service to 62 families and a total of 153 children. Only one child on the Intensive Family Support Program was placed in out-of-home care and no child benefiting from the Targeted Family Support Service entered care.

Source: Central Australian Aboriginal Congress

While the Australian Institute of Health and Welfare reports on the number of unborn children who receive a child protection service, this is defined as beginning at the investigation of a notification (AIHW, 2019d). Data is not reported on in jurisdictions where legislation does not allow for investigation prior to the child's birth: Northern Territory and South Australia. Victoria does not consider unborn children to be in the scope of child protection, therefore unborn reports are excluded from the Child Protection National Minimum Data Set reporting.

Figure 9 describes the number of unborn children receiving a child protection service in New South Wales, Queensland, Western Australia and Australian Capital Territory. In Queensland, Aboriginal and Torres Strait Islander children accounted for 51.3% (417) of unborn child reports. In New South Wales 45.7% (218) of unborn reports were for Aboriginal and Torres Strait Islander children, and 60.7% (310) of unborn reports in Western Australia were for Aboriginal and Torres Strait Islander children. There were no unborn reports for Aboriginal and Torres Strait Islander children in the Australian Capital Territory.

Although Victoria cannot begin a child protection investigation prior to a child's birth, under the *Children, Youth and Families Act 2005* (Vic.), the statutory agency can receive an unborn child report, share information with other service providers for the purpose of assessing risk and refer the mother to a child and family service to provide advice, service and support (Department of Health and Human Services [DHHS], 2019b). In the two-year time period between April 2017 and March 2019, 146 out of 702 (21%) unborn reports for Aboriginal children progressed to out-of-home care within 12 months of birth. This is significantly higher than the non-Indigenous cohort (13%) (DHHS, 2019a).

While initiating antenatal care in the first trimester is a significant indicator for future service engagement, Aboriginal and Torres Strait Islander women are less likely to access antenatal care in the first trimester of pregnancy and, overall, access less antenatal care visits than non-Indigenous women.

Figure 10, (AIHW, 2019c), shows that in 2017, **62.9% of Aboriginal and Torres Strait Islander mothers** attended at least one antenatal care session in the first trimester of pregnancy. From **2012 to 2017**, the proportion of Aboriginal and Torres Strait Islander mothers who attended antenatal care in the first trimester of pregnancy increased from **50.5 to 62.9%**. However, **in 2017** the age-standardised proportion of Aboriginal and Torres Strait Islander mothers who attended antenatal care in the first trimester was still lower than for non-Indigenous mothers **(by 7.8 percentage points, 62.9% compared with 70.7%, respectively)**.

The health of a baby at birth is a determinant of their health and wellbeing throughout life (AIHW, 2018b). Birthweight is a key indicator of infant health and a determinant of a baby's chance of survival and health later in life (AIHW, 2018b). Babies were more likely to be born both small for their gestational age and of a low birthweight if their mothers smoked during pregnancy, if their mothers were Aboriginal and/or Torres Strait Islander and if they were twins or triplets (AIHW, 2018b).

Figure 11 shows that Aboriginal and Torres Strait Islander babies are twice as likely to have a low birthweight than non-Indigenous babies. This data confirms the importance of early engagement in antenatal care for Aboriginal and Torres Strait Islander women. To address this disparity and highlight its importance, one of the Closing the Gap Refresh draft targets is for 90-92% of babies born to Aboriginal

FIGURE 9 The number of unborn Aboriginal and Torres Strait Islander and non-Indigenous children receiving child protection services by jurisdiction, 2017-18

The number of unborn Aboriginal and Torres Strait Islander and non-Indigenous children receiving child protection services by jurisdiction, 2017-18

Source: Table S3, AIHW (2019)

FIGURE 10   Age-standardised percentage of Aboriginal and Torres Strait Islander and non-Indigenous mothers who attended at least one antenatal care session during the first trimester, 2012-17
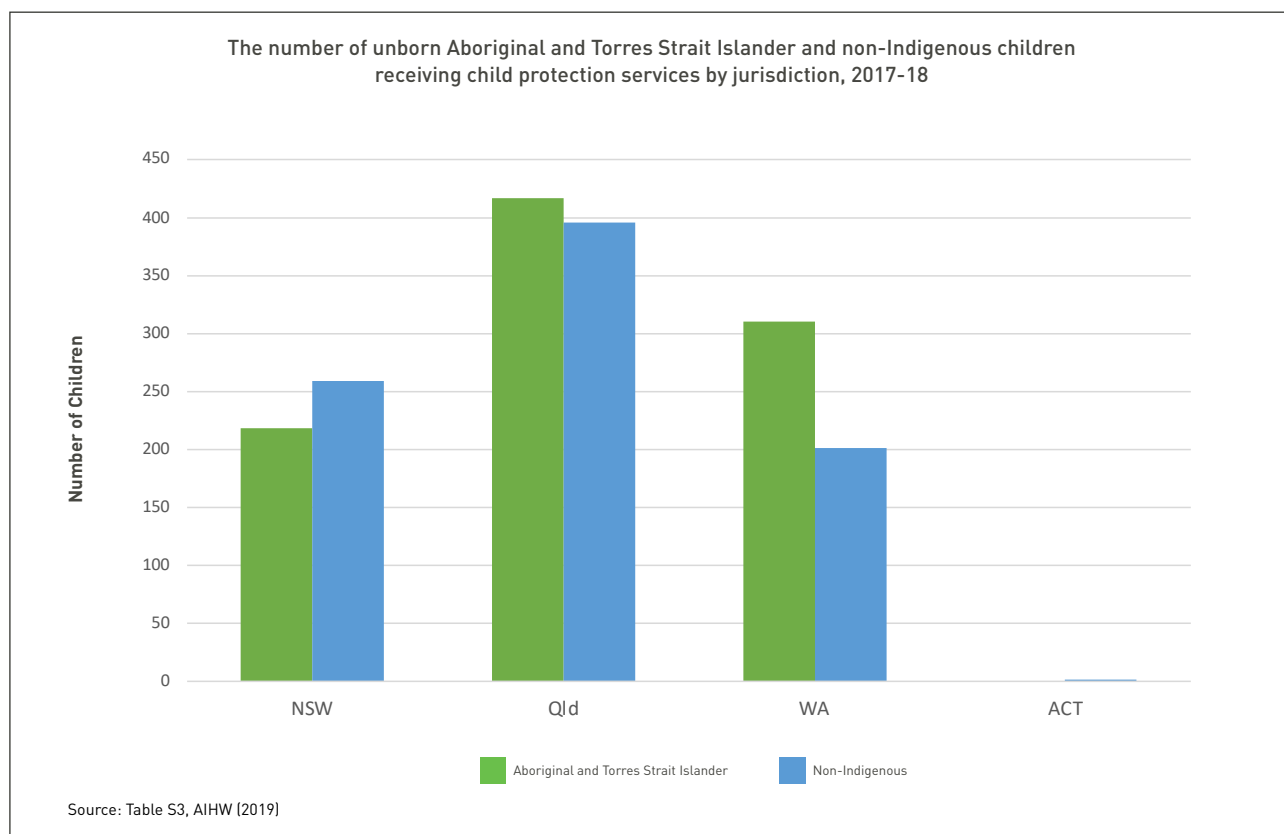

Age-standardised percentage of Aboriginal and Torres Strait Islander and non-Indigenous mothers who attended at least one antenatal care session during the first trimester, 2012-17
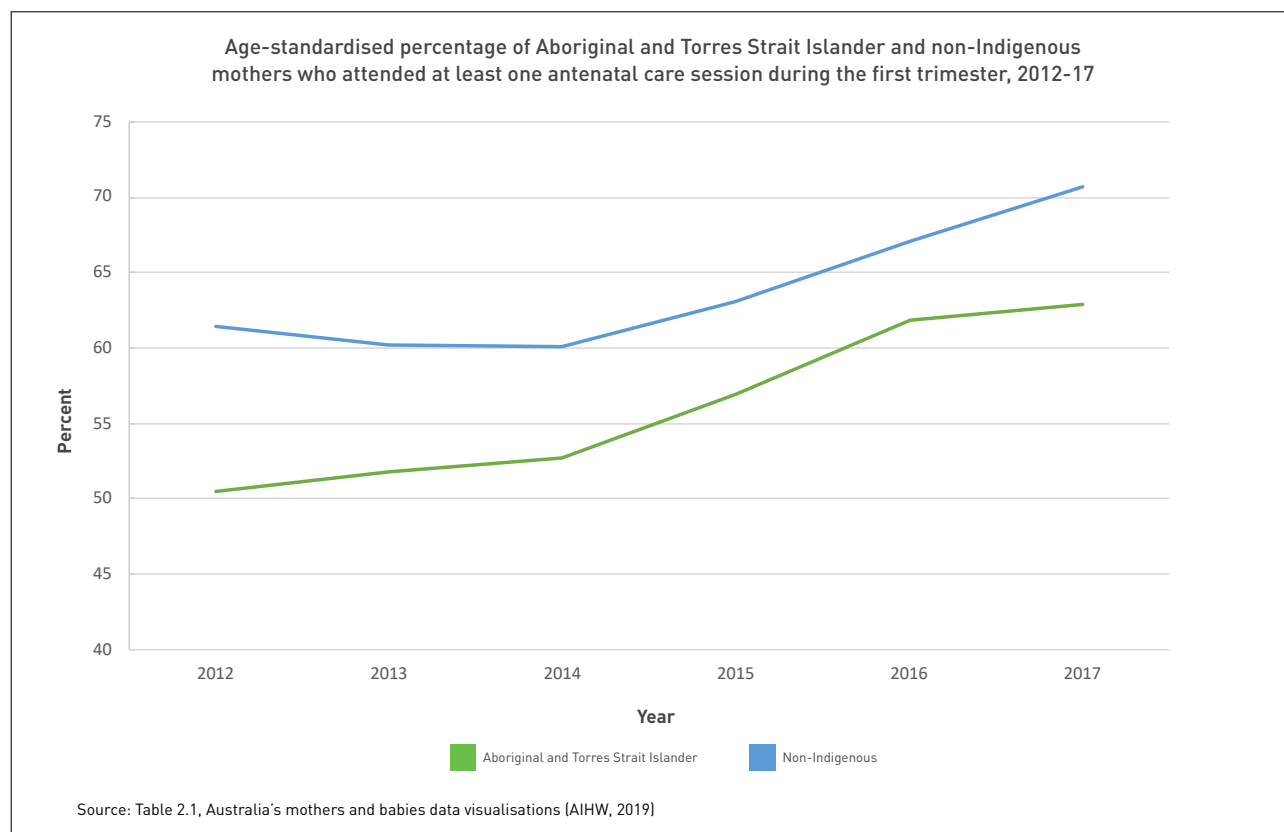
Source: Table 2.1, Australia's mothers and babies data visualisations (AIHW, 2019)

FIGURE 11
Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous babies born with low birthweight, 2012-17

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous babies born with low birthweight, 2012-17

Source: Table 4.2, Australia's mothers and babies 2017 (AIHW, 2019b)
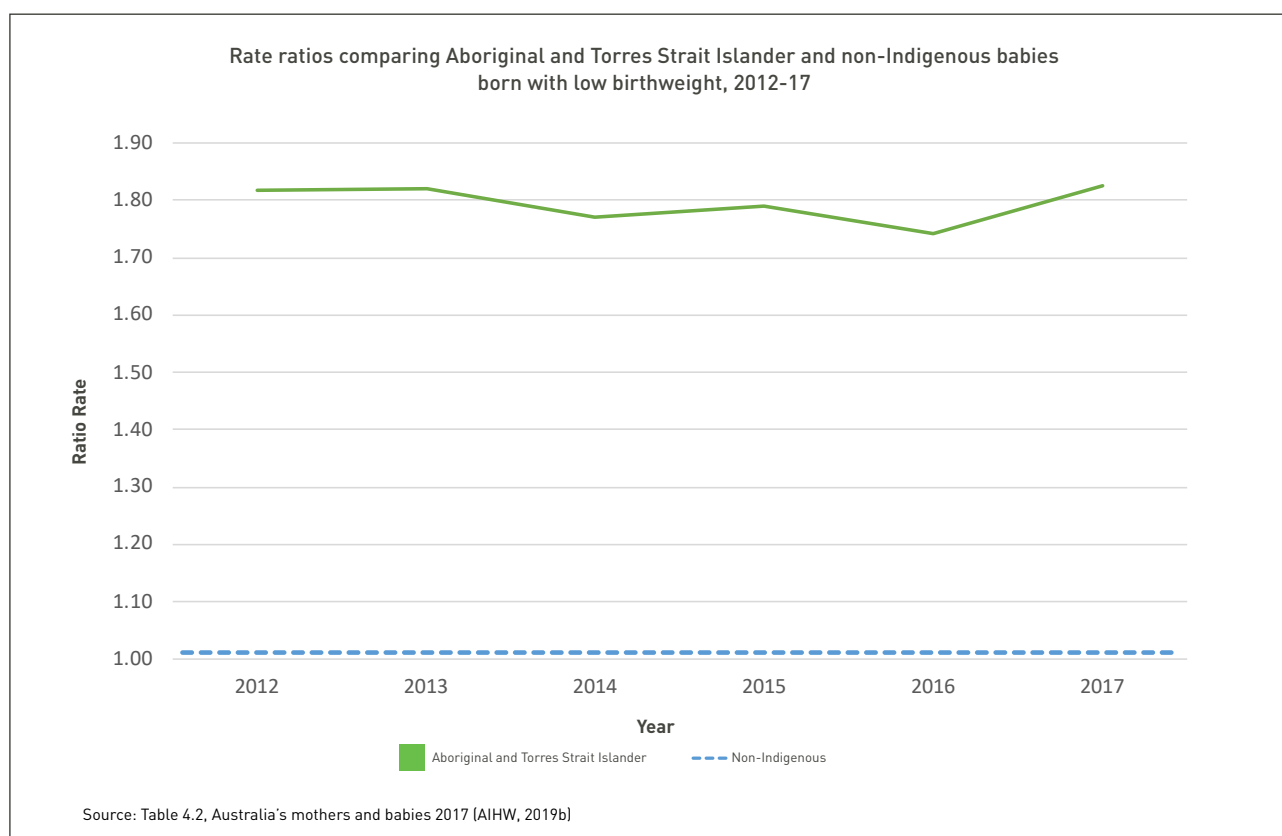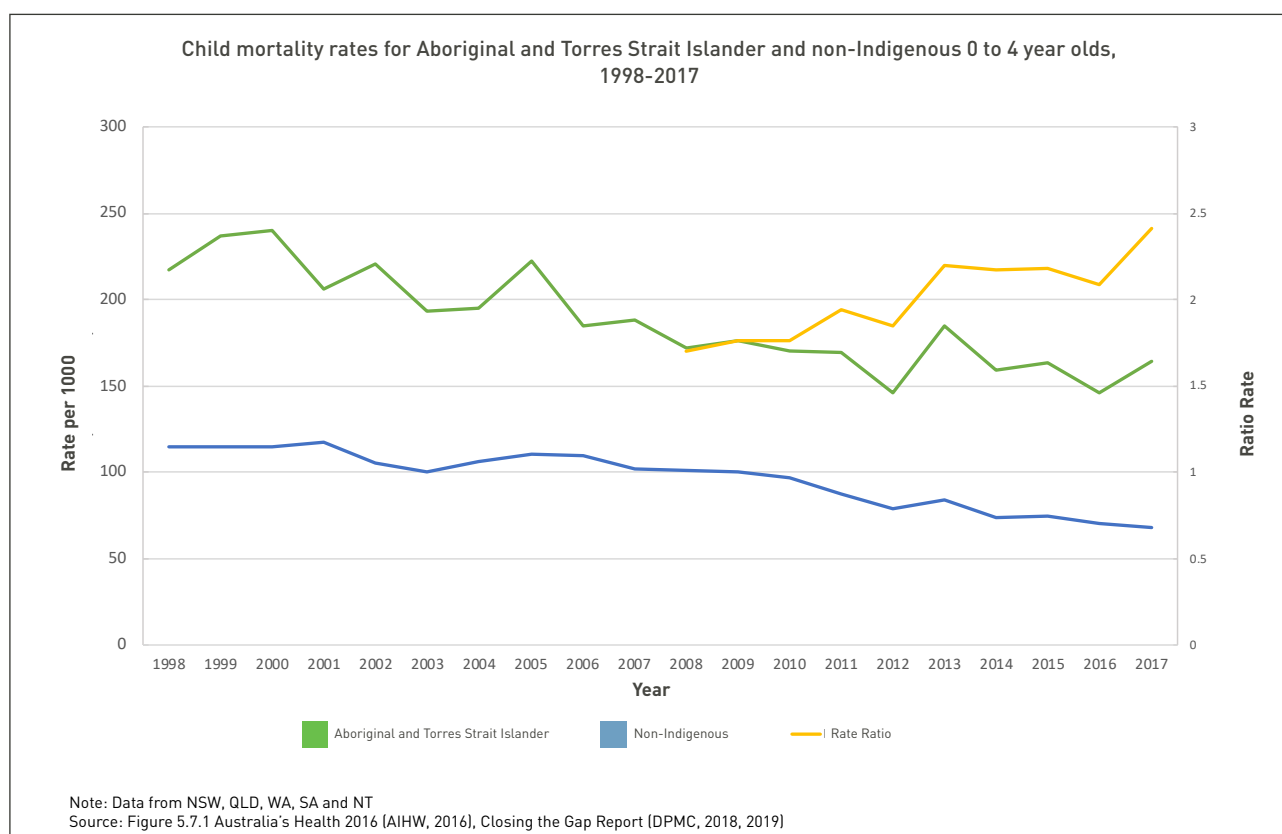
FIGURE 12   Child mortality rates for Aboriginal and Torres Strait Islander and non-Indigenous 0 to 4 year olds, 1998-2017

Child mortality rates for Aboriginal and Torres Strait Islander and non-Indigenous 0 to 4 year olds, 1998-2017

Note: Data from NSW, QLD, WA, SA and NT
Source: Figure 5.7.1 Australia's Health 2016 (AIHW, 2016), Closing the Gap Report (DPMC, 2018, 2019)

and Torres Strait Islander mothers to have a healthy birthweight by 2028.

The gap between Aboriginal and Torres Strait Islander and non-Indigenous child mortality rates has been widening since 2015 (Figure 12), with child mortality rates for 0 to 4 year olds 2.41 times higher for Aboriginal and Torres Strait Islander children than non-Indigenous children.

b) Early childhood education and care

There is compelling evidence that high-quality early education can amplify children's development and enhance lifelong social and emotional wellbeing. This is particularly true for children who experience disadvantage early in life (McLachlan, Gilfillan & Gordan, 2013). Participation in high-quality education for at least two years improves children's readiness for school and their life chances in the long term (Pascoe & Brennan, 2017). In relation to Aboriginal and Torres Strait Islander children in particular, evidence suggests that those children who attended preschool were significantly less likely to be developmentally vulnerable than those who did not attend preschool in three of the five domains, with the biggest differences being noticed in language and cognitive skills (Biddle & Bath, 2013).

On a positive note, Aboriginal and Torres Strait Islander children's enrolment in preschool has significantly increased in recent years. In 2012, Aboriginal and

Torres Strait Islander children were substantially less likely than their non-Indigenous peers to be enrolled in preschool. The National Partnership Agreement to achieve access to preschool for every child in the year before school drove sustained effort and investment by governments, community organisations and providers (COAG, 2008). Nationally, in 2017 the attendance rate of Aboriginal and Torres Strait Islander children rose to be on par with that of non-Indigenous children, and has remained that way in 2018 (Figure 13). However, there are substantial variations between jurisdictions (Figure 14). Attendance rates in the Northern Territory remain consistently low, with Aboriginal and Torres Strait Islander children half as likely to attend a preschool program in the year before schooling (Figure 14).

> As Aboriginal people we need to embed our traditional morals and values into the lives of our children. We're too divided as people and we need to begin to sew all our stories together, to move forward as one, with a united voice.
> - Wilyakali woman, Broken Hill, 24 years old

The gains in access to preschool education in the year before school have not been matched by gains in access to other early childhood services. Aboriginal and Torres Strait Islander children remain under-represented in early childhood education and care (ECEC) services such as long day care, family day care and out-of-school hours care.

FIGURE 13   Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children aged 4 and 5 years attending a preschool program in the year before schooling, 2012-18

Note: In 2016, a new state-specific Year Before Full Time Schooling (YBFS) definition was used.
Source: Table 3A.31, 3A.36, Chapter 3 (SCRGSP, 2017)
        Table 28 and Appendix 4 (Preschool Education Australia, 2017, 2018, 2019)

FIGURE 14 Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children aged 4 and 5 years attending a preschool program in the year before schooling, by jurisdiction, 2018

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children aged 4 and 5 years attending a preschool program in the year before schooling, by jurisdiction, 2018
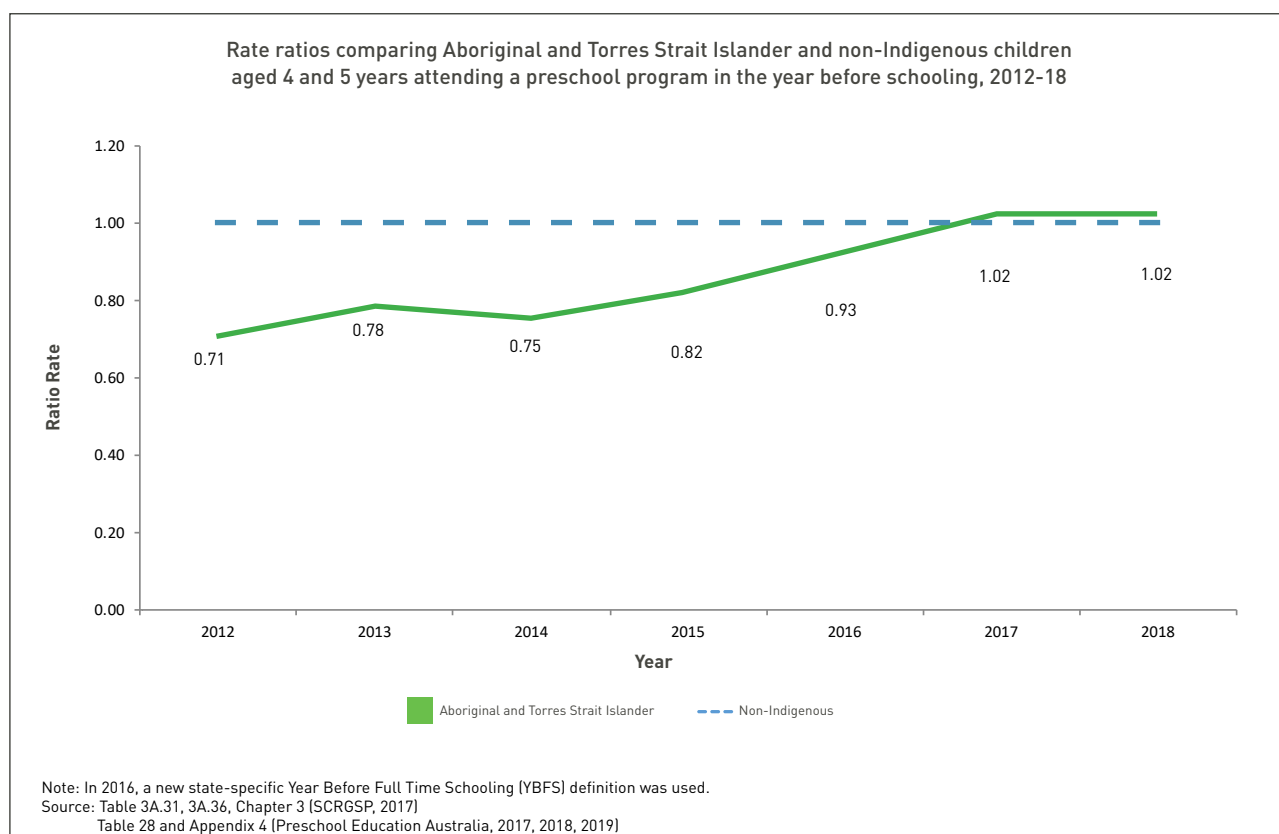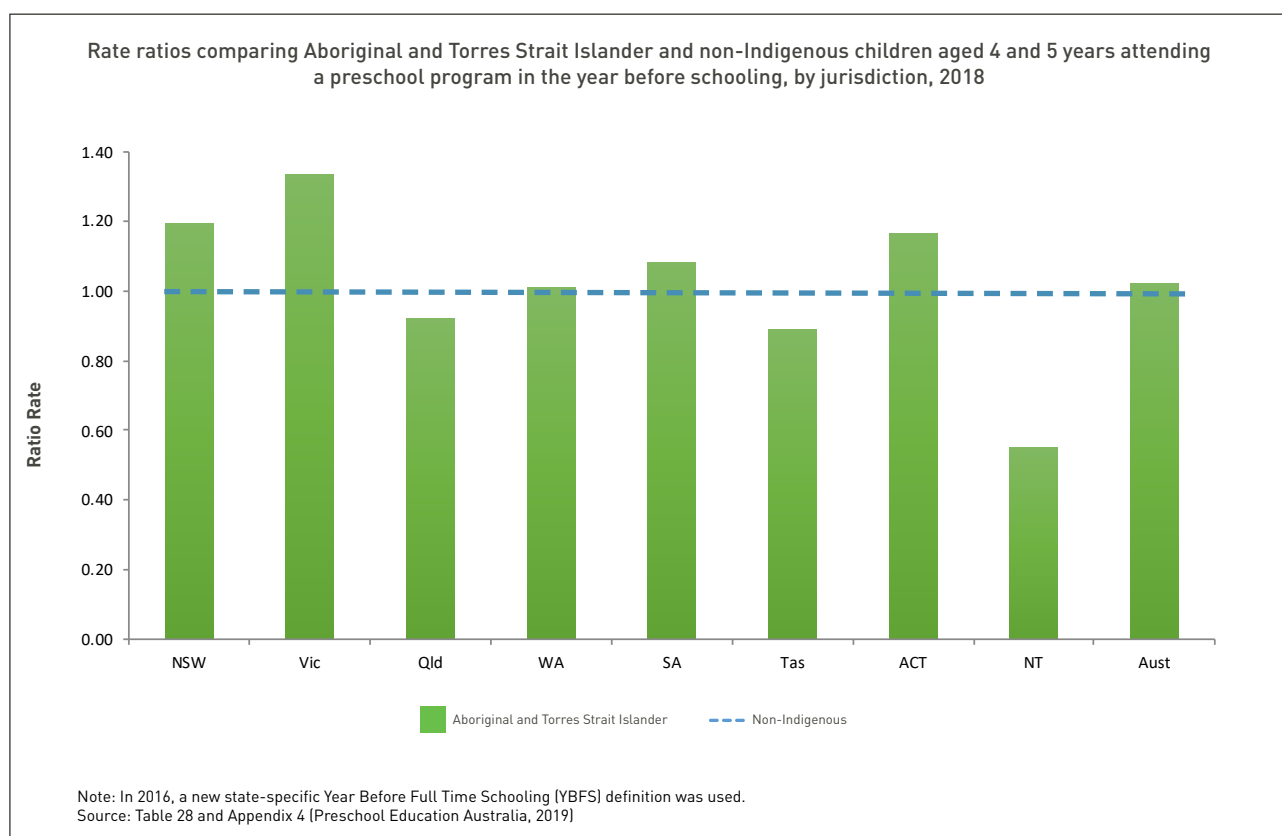
Note: In 2016, a new state-specific Year Before Full Time Schooling (YBFS) definition was used.
Source: Table 28 and Appendix 4 (Preschool Education Australia, 2019)

Across Australia, there are striking disparities in access to Commonwealth-funded services such as long day care, family day care and out of school hours care. Across Australia, Aboriginal and Torres Strait Islander children attend these services at half the rate (50%) of their non-Indigenous peers (Figure 15). This figure has remained consistently low. There are significant differences between the jurisdictions, however, with attendance rates varying from 17% in the Northern Territory to 61% in Victoria.

This data is concerning because it is well established that participation in high-quality early childhood education, for at least two years before school, improves children's school readiness and their life chances in the long term (Pascoe & Brennan, 2017). This has even more impact for children who have, or are experiencing disadvantage (Sparling, Ramey & Ramey, 2007). It is evident that Aboriginal and Torres Strait Islander children who attend preschool are significantly less likely to be developmentally vulnerable than those who do not attend preschool in three of the five Australian Early Development Census domains, with the biggest differences shown in the language and cognitive skills domain (Biddle & Bath, 2013).

The Abecedarian program is one example of an early learning program that demonstrates improved outcomes for Aboriginal and Torres Strait Islander children. The program involves children from low-

income families receiving full-time, high quality educational intervention in a childcare setting, from infancy through to age five. Each child receives personalised educational activities, focusing on social, emotional and cognitive areas of development with particular emphasis on language. The Abecedarian Approach Australia (3a) is an adaptation for young Aboriginal and Torres Strait Islander children living in remote communities. American longitudinal studies identified significant results, including that by age 30, participants were 42% more likely to have been in recent employment; 81% less likely to have been recently receiving welfare; and four times as likely to have graduated from high school than those who did not participate in the program (Campbell et al., 2012; Sparling et al., 2007).

The Australian Early Development Census provides a measure of children's development at the time they commence full-time schooling. Data are collected in five areas or domains: physical health and wellbeing; social competence; emotional maturity; language and cognitive skills; and communication skills and general knowledge. Whilst most Aboriginal and Torres Strait Islander children start school on track for a positive educational experience, a significant proportion begins at a disadvantage. The 2018 Australian Early Development Census showed that Aboriginal and Torres Strait Islander children are twice as likely to be

FIGURE 15 Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children aged 0 to 5 attending Australian Government CCB approved child care services, by jurisdiction, 2018

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children aged 0 to 5 attending Australian Government CCB approved child care services, by jurisdiction, 2018
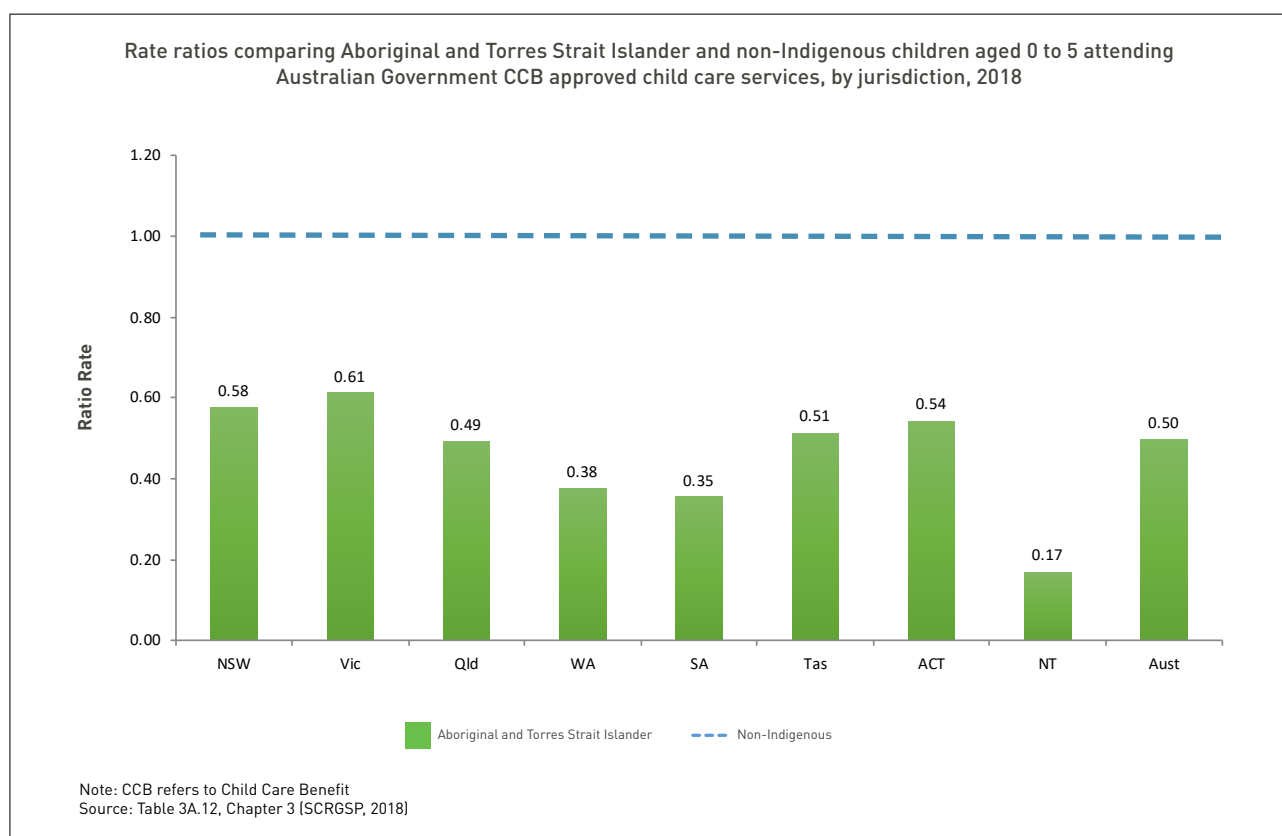
Note: CCB refers to Child Care Benefit
Source: Table 3A.12, Chapter 3 (SCRGSP, 2018)

FIGURE 16 Rate ratios comparing developmentally vulnerable Aboriginal and Torres Strait Islander and non-Indigenous children in Australia, 2009-18

Rate ratios comparing developmentally vulnerable Aboriginal and Torres Strait Islander and non-Indigenous children in Australia, 2009-18

Source: Table 19 (AEDC, 2016), Table 18 (AEDC, 2019)
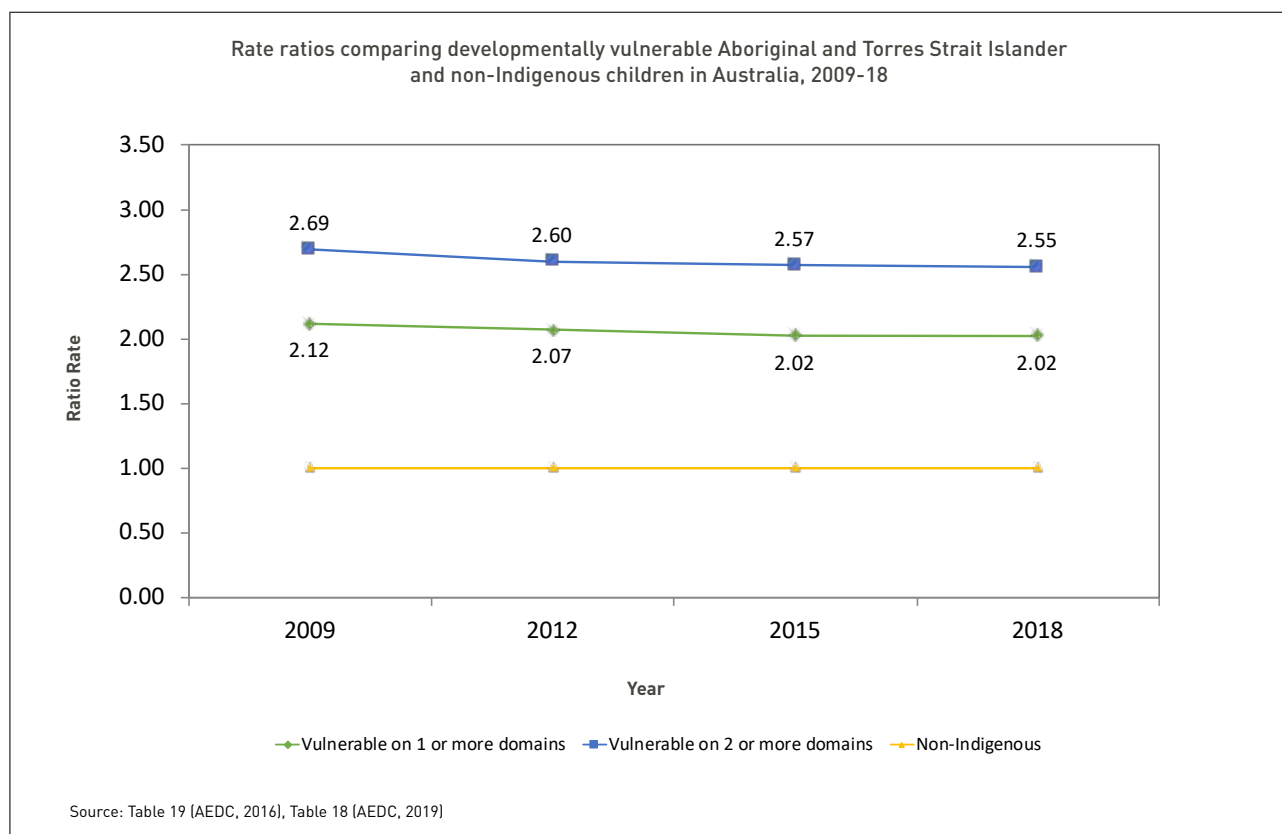
vulnerable in one or more domains of development than their non-Indigenous peers. Deeply concerning is that they are even more likely to be vulnerable in two or more domains. There has not been any significant improvement on these measures since 2015 (Figure 16).

THE NEW CHILD CARE PACKAGE

Aboriginal and Torres Strait Islander children currently have substantially less access to Commonwealth-funded early childhood services than their non-Indigenous peers. The New Child Care Package (the Package), introduced in July 2018 is likely exacerbating this inequity. SNAICC has been consulting regularly with a large network of child care service providers for Aboriginal and Torres Strait Islander children in every state and territory to monitor and understand the impact of the Package on children and families. In May 2019, SNAICC undertook a survey that was completed by 54 early childhood education and care services that collectively support over 1700 Aboriginal and Torres Strait Islander children, nationwide. Fifty-eight per cent of the 31 services that responded to a question about hours of access reported that Aboriginal and Torres Strait Islander children are accessing fewer hours of early education and care services because of the Package. The introduction of an Activity Test, which halves subsidised hours of child care to just 12 hours per week for many low income families who do not meet work or study requirements, is excluding Aboriginal and Torres Strait Islander children from accessing the early education that they need. Specifically, 45% of the 31 services that responded to a question about reasons for reduced hours told SNAICC that children are accessing fewer hours because of the activity test.

The introduction of a 'user pays' model instead of the previous budget-based funding model, coupled with reduced attendance rates, has resulted in some Aboriginal and Torres Strait Islander early years education and care services accumulating debt and raising concerns about their immediate and long-term financial viability. The greatest challenge for services reported in SNAICC's survey as a result of the transition to the Package was managing debts from families who are unable to pay, with 67% of the 24 services that responded to a question about challenges highlighting this.

Services also reported a very high burden of additional, unfunded administrative and family support work as a result of the introduction of the Package and requirement for families to be registered with Centrelink. The increased administrative workload was cited in SNAICC's survey as the second greatest challenge for services as a result of the transition to the Package, with 54% of 24 services highlighting this.

THE VITAL ROLE OF ABORIGINAL AND TORRES STRAIT ISLANDER EARLY YEARS SERVICES

A substantial number of Aboriginal and Torres Strait Islander children attend services including Multifunctional Aboriginal Children's Services (MACS) and Aboriginal Child and Family Centres (ACFCs). MACS and ACFCs provide culturally-centred, community-based services that offer long day care and at least one other form of child care or support service, and often many additional forms of child, family and community support. These services do not cater only to the children who come through the doors for specific programs, but rather seek to support all children and their families who may be in need (SNAICC, 2016). They help to build stronger communities by nurturing strong local leadership, a skilled workforce and connected families (Brennan, 2013). The services connect vulnerable families to an array of integrated services that are designed to meet locally determined priorities and needs, and to build Aboriginal and Torres Strait Islander workforce capacity, with 115 Aboriginal and Torres Strait Islander staff employed in New South Wales ACFCs alone in 2014 (CIRCA, 2014).

The role of both ACFCs and MACS in reaching out to Aboriginal and Torres Strait Islander children who are not otherwise accessing early education and care services illustrates the positive impact of local ownership of such services. According to Trudgett and Grace (2011), "the establishment of [MACS] centres is potentially the most important contributor to the decrease in the discrepancy between the rates of Indigenous and non-Indigenous enrolment in early childhood services" (p. 18). Similarly, the evaluation of the New South Wales ACFCs in 2014 confirmed that, on average, 78% of children attending child care through the ACFCs in New South Wales had not previously accessed early education and care (CIRCA, 2014).

Since the introduction of the Package in 2018 and the ending of the Budget Based Funded Program that previously supported MACS, the introduction of a new Community Child Care Fund has enabled some services to maintain levels of services despite the challenges of transitioning to the new system of child care, though this fund has excluded most Aboriginal Child and Family Centres. However, despite this support, the long-term sustainability of these vital services is at risk due to reported reduced rates of participation by Aboriginal and Torres Strait Islander families (see boxed text above: The Impact of the New Child Care Package). This issue needs to be urgently revisited so that these evidence-based models of practice and empowerment are supported, built upon and not lost.

c) Investment in family support services

Prevention and early intervention programs and services are essential for strengthening families and enabling them to provide the best possible environment for their children. Core service types that are identified as critical in supporting families experiencing vulnerabilities include: intensive family support to preserve and reunify families where there are child protection concerns; in-home parent support services; and other general family support including casework support for families experiencing intermittent or lower-level difficulties. The proportion of financial resources allocated to early intervention and prevention provides some indication of Australia's commitment to implementing a public health approach to achieving child safety and wellbeing. However, these data should be interpreted with caution, as there are significant inconsistencies in the ways the states and territories define, and report on expenditure related to, family support services.

Publicly reported state and territory expenditure on child protection and family support services is not available by Indigenous status nationally, which means that there is no clear picture of whether Aboriginal and Torres Strait Islander families receive an equitable share of resources relative to needs. However, examination of recurrent expenditure provides a useful indication of the level of intensive family support provided to families for the purposes of preservation

or reunification/restoration, as compared to expenditure on protective intervention services – for example, receiving reports of child maltreatment, investigation and assessment of maltreatment concerns, children's court proceedings, and child protection interventions – and out-of-home care services.

> "We need a youth support/hub program which is designed for our youth. Where it is easy for our youth to access information with also getting support from a support worker.
> - Kuruma Marthudunera young person, 24 years old

The premise of the National Framework for Protecting Australia's Children 2009 – 2020 is that redressing the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care requires an increased focus on prevention and early intervention. In the short-term, this would require a period of "double-budgeting" where increased resources are allocated to early intervention and prevention services in addition to full funding of tertiary services, in anticipation of long-term reduced demand in tertiary services (ARACY, 2008, p. 47). However, the 2017-18 data indicates that state and territory expenditure on family support and intensive family support services remains, as it has in the previous two financial years, at just over 17% of overall real expenditure on child protection. This is just under $1 billion compared to the over

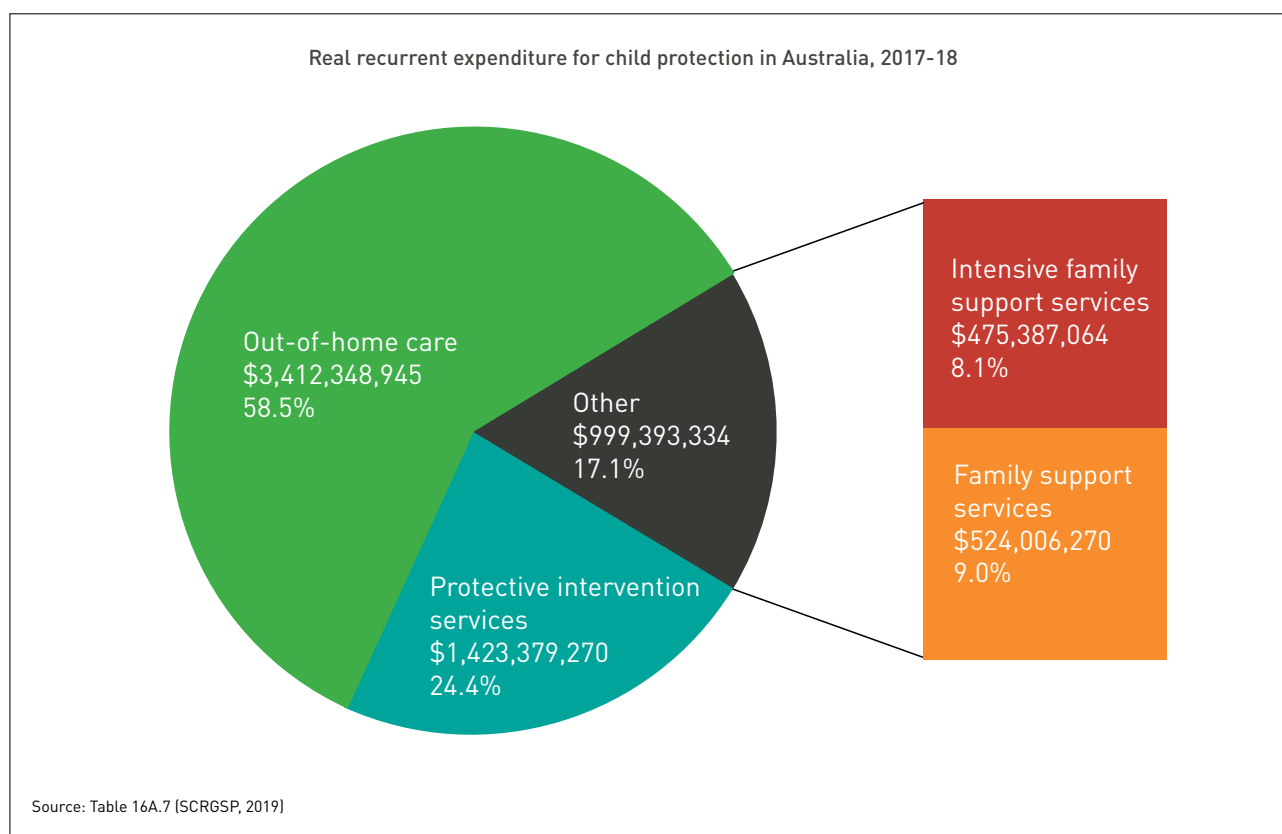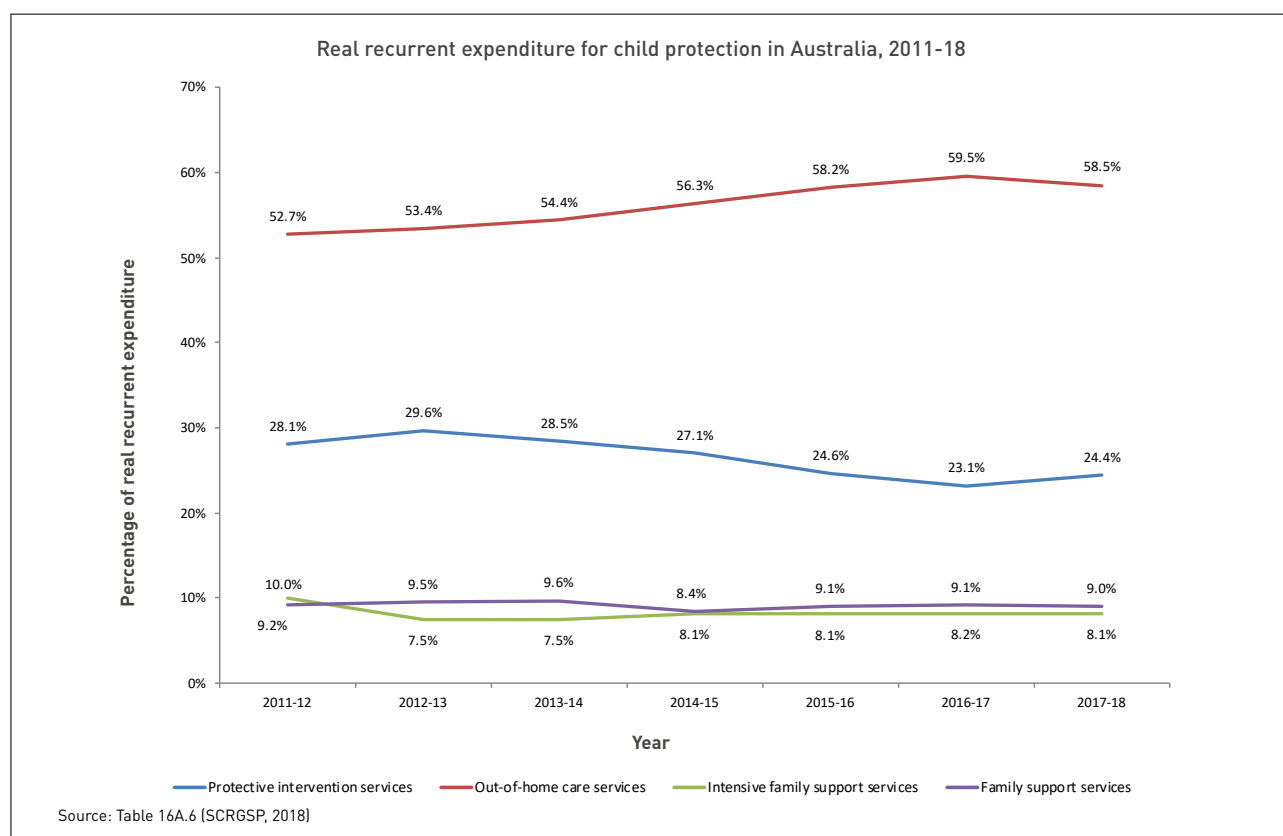**FIGURE 17**   Real recurrent expenditure for child protection in Australia, 2017-18

Real recurrent expenditure for child protection in Australia, 2017-18

Out-of-home care
$3,412,348,945
58.5%

Other
$999,393,334
17.1%

Protective intervention services
$1,423,379,270
24.4%

Intensive family support services
$475,387,064
8.1%

Family support services
$524,006,270
9.0%

Source: Table 16A.7 (SCRGSP, 2019)

Real recurrent expenditure for child protection in Australia, 2011-18

Source: Table 16A.6 (SCRGSP, 2018)

$4.8 billion, or 83% of funds spent on protective intervention and out-of-home care services (Figure 17) (SCRGSP, 2019). At only 9% and 8% of the overall budget, respectively, governments are not only under-investing in intensive family support and family support services, but also not shifting the balance despite rhetoric about the value of prevention and early intervention. To reduce unnecessary state intervention in Aboriginal and Torres Strait Islander family life, expenditure must be re-balanced from statutory child protection intervention (i.e. tertiary level and court-ordered) to early intervention family support services (i.e. voluntary and secondary level) (COAG, 2009).

Examining the change over time in expenditure categories provides an indication of whether, and the extent to which, expenditure is being shifted from tertiary to secondary and preventive services. Of particular interest is the investment in services for children and families to receive support to prevent statutory child protection intervention or to support early reunification of children with family, compared with the investment in statutory intervention services including out-of-home care. Relative investment in these support services continues to decrease, albeit slightly. Funding for out-of-home care services decreased to 58.5% in 2017-18 from 59.5% in 2016-17, while funding for protective intervention services increased from 23.1% to 24.4% over the same period.

Figure 18 shows the percentage changes over the seven-year period. Protective intervention services refer to "the functions of governments that receive and assess allegations of abuse … and intervene to protect children" (SCRGSP, 2019, p. 16.39). The increase in proportionate investment in these services in 2017-18 is still indicative of a child protection system that is overly crises oriented and reliant on statutory intervention (Fox et al., 2015). While the relative percentage changes appear small, the changes amount to millions of dollars, with funding for out-of-home care rising from $3.1 billion in 2016-17 to $3.4 billion in 2017-18. This indicates that investment in early intervention and prevention services has not kept pace with the increased level of investment in tertiary services, predominantly out-of-home care. Western Australia reports a very significantly lower proportional investment in intensive family support and family support than any other state or territory, investing only 4.8% of its total child protection spending (Table 1). As indicated in Figure 19 this also equates to by far the lowest expenditure per capita of the child population on family support in the state with the second highest over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. Victoria has the highest proportional investment in intensive family support and support services among jurisdictions at 27.1% of its total child protection investment (Table 1).

Table 1   Real recurrent expenditure for child protection services – protective intervention services (PIS), out-of-home care (OOHC), intensive family support services (IFSS), and family support services (FSS) by state and territory governments, 2017-18

JURISDICTION	PIS		OOHC		IFSS		FSS		TOTAL
	Unit $'000	%	Unit $'000	%	Unit $'000	%	Unit $'000	%	
NSW	540619	26.6	1201499	59.1	176413	8.7	114423	5.6	2 032 954
VIC	296636.6	22.9	646050	50.0	137363	10.6	212765.2	16.5	1 292 815
QLD	286983.6	26.8	607861.1	56.8	97466	9.1	77656.7	7.3	1 069 968
WA	193592	39.1	277539	56.1	11065	2.2	12632	2.6	494 828
SA	44121	8.0	425016	76.6	34435	6.2	51040	9.2	554 612
TAS	23150	20.6	74335	66.3	8073	7.2	6629	5.9	112 187
ACT	13602.0	20.9	42659.8	65.7	5693	8.8	2991.3	4.6	64 946
NT	24675	11.6	137389	64.6	4879	2.3	45869	21.6	212 812
AUSTRALIA	1423379.3	24.4	3412348.9	58.5	475387	8.1	524006.2	9.0	5835121

Source: Table 16A.7 (SCRGSP, 2019)

While these figures provide an overall picture of child protection expenditure, the limited data available on investment in Aboriginal and Torres Strait Islander agencies, as discussed further in Part 3, demonstrates that investment in Aboriginal and Torres Strait Islander community-controlled organisations is vastly disproportionate to the level of engagement of our families in child protection. Research has found that quality interventions by Aboriginal and Torres Strait Islander community-controlled intensive family support services address access barriers for families by providing culturally strong casework supports and assisting them to access and navigate the broader service system (Tilbury, 2015). It is critical that all Australian governments support the vital role of Aboriginal and Torres Strait Islander community-controlled organisations in leading the design and delivery of holistic child and family services.

Table 1 shows the breakdown of expenditure in child protection for 2017-18 by states and territories.

d) Family support services

While quality data are not available on access to and utilisation of all family support services, data are published about commencement of intensive family support. Intensive family support models provide time-limited, in-home, intensive casework supports aimed at addressing the complex needs of families experiencing vulnerabilities (SCRGSP, 2019, p. 16.37). Some of these are operated by Aboriginal and Torres Strait Islander community-controlled organisations and they have been found to bridge known barriers to service delivery by providing culturally strong casework supports and assisting families to access and navigate the broader service system (Tilbury, 2015).

States and territories were asked to provide data on Aboriginal and Torres Strait Islander children's access to both non-intensive and intensive family supports services for Aboriginal and Torres Strait Islander children. Data was received from all states and territories except Tasmania and New South Wales.

Victoria provided data about Aboriginal and Torres Strait Islander families' commencement of particular intensive and non-intensive family support programs in 2017-18. In total, 3836 children attended an intensive family support service, of which 735 (19.1%) were Aboriginal and Torres Strait Islander. A breakdown by program type is available on the Family Matters website. 2578 (9.5%) of the 27,217 children commencing a non-intensive family support service were Aboriginal and Torres Strait Islander.

Western Australia provided data about the number of Aboriginal and Torres Strait Islander children commencing a tertiary family preservation/reunification service. Of the 670 children who had started a service, 218 (33%) were Aboriginal and Torres Strait Islander. This is a significant drop in commencement from 2016-17, where 45.6% of children who had commenced an intensive family support service were Aboriginal and/or Torres Strait Islander.

South Australia provided data on the number of Aboriginal and Torres Strait Islander children commencing intensive family support services, including targeted intervention services and family preservation and reunification services in 2017-18. Of the total 505 children who commenced targeted intervention services, 155 (31%) were Aboriginal and Torres Strait Islander children. A total of 384 children commenced family preservation and reunification services in 2017-18 and 158 (41%) of those children were Aboriginal and Torres Strait Islander. Data were not available about children accessing non-intensive family support services. A comparison with data provided for 2016-17 – targeted intervention services (39%) and family preservation and reunification services (49%) – suggests that Aboriginal and Torres Strait Islander children were less likely to commence an intensive family support service this year.

The Australian Capital Territory provided the most comprehensive data, including commencement for both intensive and non-intensive family support services for Aboriginal and Torres Strait Islander children in 2017-18. Of the 297 children who commenced an intensive family support service in 2017-18, 80 (26.9%) were Aboriginal and Torres Strait Islander children. Of the 1517 children whose Aboriginal and Torres Strait Islander status was recorded commencing a non-intensive family support service, 247 (16.3%) were Aboriginal and Torres Strait Islander. There were an additional 225 children who commenced a non-intensive service whose status was unknown.

In the Northern Territory, 457 (73%) of children commencing intensive family support services in 2017-18 were Aboriginal and Torres Strait Islander children. Thirty-five (5%) of children were of unknown Indigenous status. In 2016-17, Aboriginal and Torres Strait Islander children represented 80% of those commencing an intensive family support service. Data were not provided about children commencing non-intensive family support services.

Queensland provided data on children supported by the state's intensive family support services. In an effort to best approximate the number of families receiving an 'intensive' service, Queensland added to these data a portion of children supported by Aboriginal and Torres Strait Islander Family Wellbeing Services who were referred from the Department of Child Safety, Youth and Women (except statutory clients), and an estimated 50% referred from other sources. In Queensland, 2801 (40%) of children commencing an intensive family support service were Aboriginal and Torres Strait Islander. Data were not provided about children commencing non-intensive family support services.

Tasmania did not provide data related to commencement in intensive or non-intensive family support services. Similar to last year, Tasmania provided the following statement about making data available about Aboriginal and Torres Strait Islander children's commencement during 2017-18 of intensive family support services: "Data is not available, as data published in the Report on Government Services is not disaggregated by Indigenous status."

Figure 20 shows that in 2017-18 Aboriginal and Torres Strait Islander children were on average 6.4 times more likely to commence an intensive family support service than non-Indigenous children, noting that data were unavailable for Tasmania, an increase from 2016-17 where Aboriginal and Torres Strait Islander children were 4.6 times as likely to commence a service. The rate ratios ranged from 5.8 times more likely for an Aboriginal and Torres Strait Islander child to commence intensive family support than a non-Indigenous child in Victoria, to over 13.1 times more likely in the Australian Capital Territory.

Although this type of over-representation can be seen as encouraging (i.e. Aboriginal and Torres Strait Islander children are more likely than their non-Indigenous counterparts to receive needed services), the data should be approached with some caution. Broadly speaking, the referral pathways for intensive family support prioritise families who have been screened in for investigation of a *risk of harm report* (Australian Centre for Child Protection, 2017). Although these services are considered voluntary, there is much discussion about the extent to which families have free choice to participate. The potential consequences for families who choose not to engage with services include more intrusive interventions by the statutory agency, and removal of children into out-of-home care (SNAICC, 2015).

Interpretation of the Integrated Family Support Service (IFSS) commencement data is further complicated by a lack of data on families' participation in other services that seek to divert families from child protection intervention. Non-intensive supports, and general family support services that are not restricted to referrals from child protection services, are also vitally important to earlier intervention to support family functioning. These services are often tailored to address a broad range of family issues with varying complexity, and accept referrals from the community, meaning families are more likely to receive support voluntarily before being subject to statutory intervention. Unfortunately, data are unavailable to assess whether families are accessing other family supports.

Furthermore, the level of service access does not necessarily match the level of need and is yet to demonstrate a significant impact on rates of over-representation in out-of-home care. Despite over-representation in intensive family support, just under 3% of Aboriginal and Torres Strait Islander children commenced an intensive family support service in 2017-18 across the five states and territories where data were available (Figure 20). Figure 19 also shows the level of expenditure per child by each state and territory on intensive family support. This provides another caution, showing, for example, that in Victoria, investment is high yet the rate ratio for Aboriginal and Torres Strait Islander children is low. As noted above, Western Australia continues to invest by far the least per capita in intensive family support, while also investing comparatively little in other family support services as indicated in Table 1.

FIGURE 19 Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children commencing IFSS and IFSS expenditure per child (general population), by jurisdiction, 2017-18
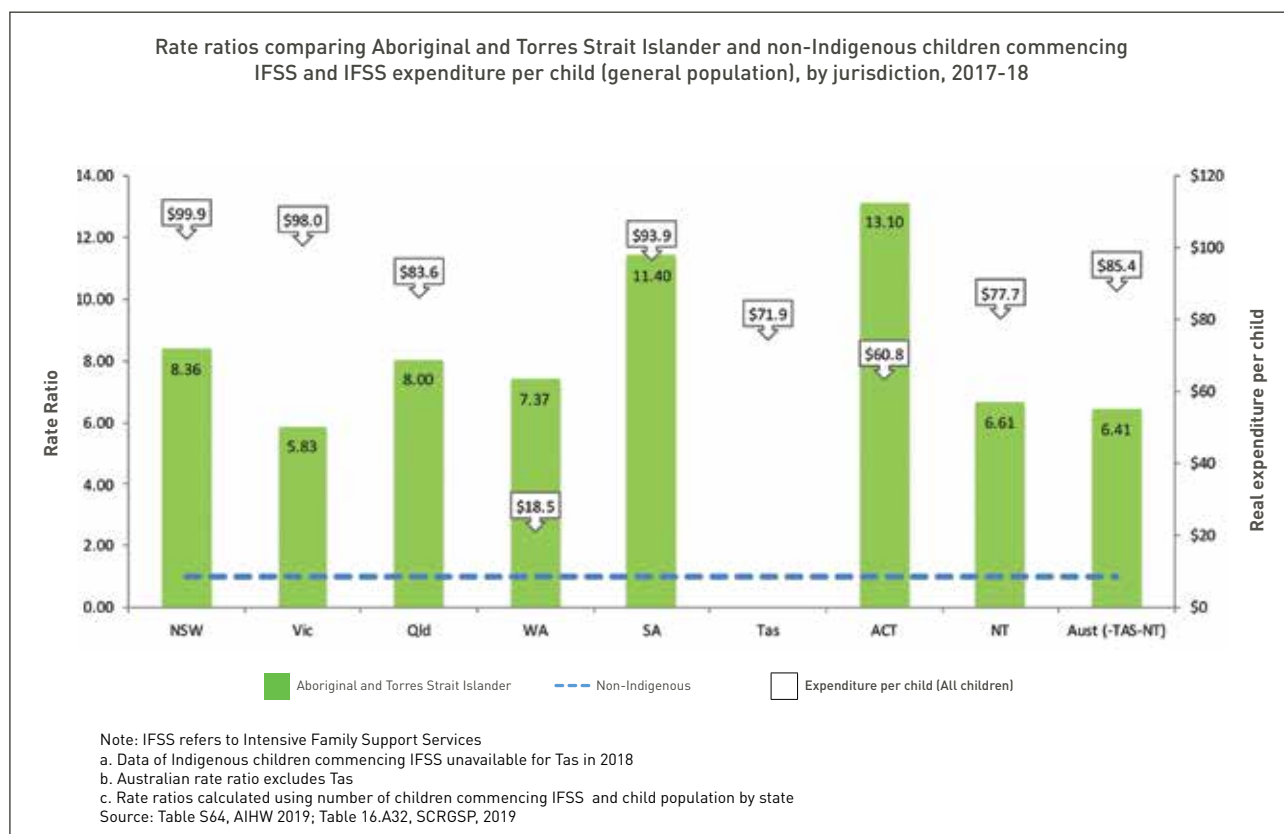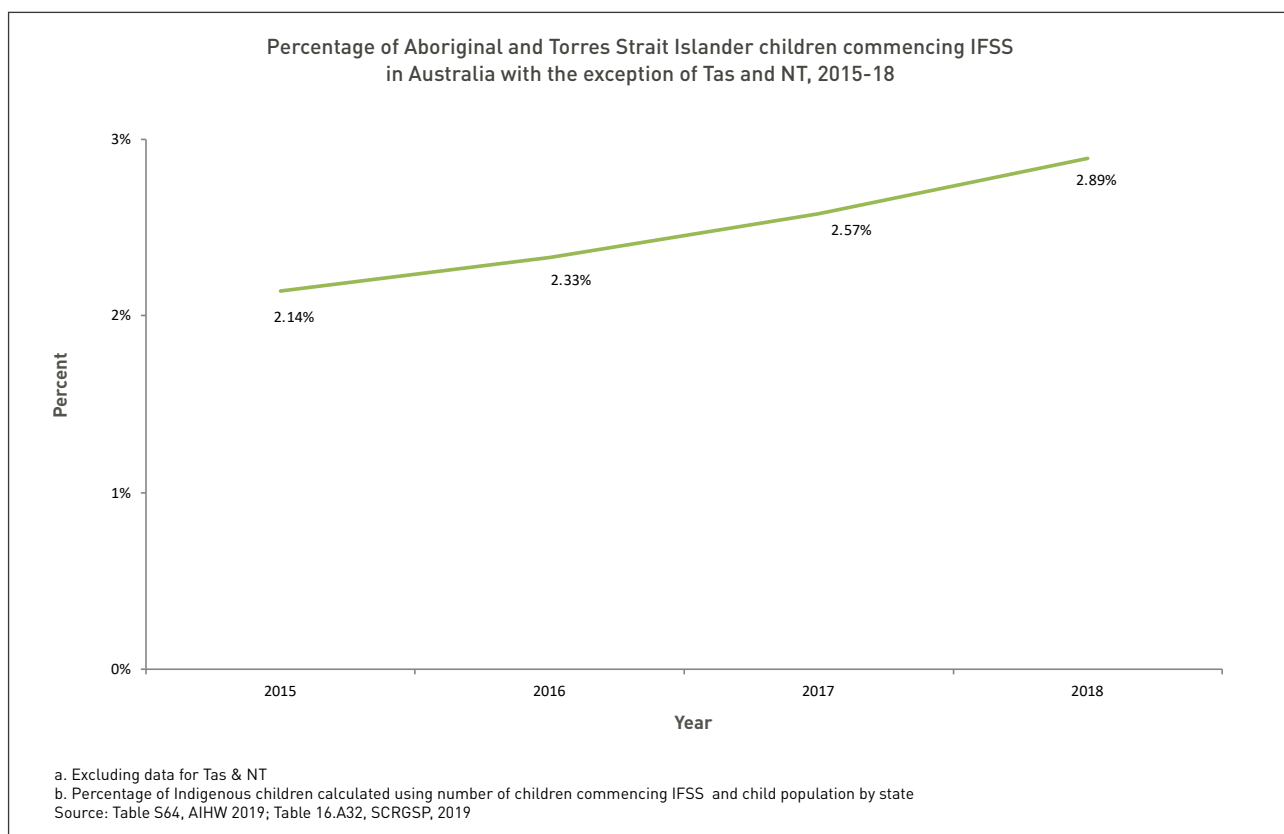

Rate ratios comparing Aboriginal and Torres Strait Islander and non-Indigenous children commencing IFSS and IFSS expenditure per child (general population), by jurisdiction, 2017-18

Note: IFSS refers to Intensive Family Support Services
a. Data of Indigenous children commencing IFSS unavailable for Tas in 2018
b. Australian rate ratio excludes Tas
c. Rate ratios calculated using number of children commencing IFSS and child population by state
Source: Table S64, AIHW 2019; Table 16.A32, SCRGSP, 2019

FIGURE 20   Percentage of Aboriginal and Torres Strait Islander children commencing IFSS in Australia with the exception of Tas and NT, 2015-18

Percentage of Aboriginal and Torres Strait Islander children commencing IFSS in Australia with the exception of Tas and NT, 2015-18

a. Excluding data for Tas & NT
b. Percentage of Indigenous children calculated using number of children commencing IFSS and child population by state
Source: Table S64, AIHW 2019; Table 16.A32, SCRGSP, 2019

e) Family violence

The social, cultural, spiritual, physical and economic impact that family violence has on Aboriginal and Torres Strait Islander families is devastating and is widely described as a national crisis. As described in *Strong Families, Safe Kids: Family Violence Response*

and Prevention for Aboriginal and Torres Strait Islander Children and Families, family violence is a significant reason for contact with child protection services (SNAICC, National Family Violence Prevention Legal Services [NFVPLS] & National Aboriginal and Torres Strait Islander Legal Services [NATSILS], 2017). Although overall rates of family violence are high, family violence does not impact all communities equally. Some communities may have high levels of family violence and others may have very little. It is similarly important to recognise that family violence is understood to be significantly under-reported (Willis, 2011).

The trauma of colonisation and oppression is directly linked to the complexity and prevalence of family violence that exists today. In some circumstances, family violence can occur across generations, part of an intergenerational cycle. An Australian study found that, among Aboriginal and Torres Strait Islander families, a history of removal from families during childhood was a potential risk factor for mothers experiencing family violence as an adult (Cripps, Bennett, Gurrin & Studdert, 2009).

Due to under-reporting of family violence it is not possible to establish the prevalence of family violence, sexual assault, and other types of violence (Phillips & Vandenbroek, 2014). However, available research indicates that family violence occurs at higher rates for Aboriginal and Torres Strait Islander people than for non-Indigenous people. In 2015, Aboriginal and Torres Strait Islander women were significantly more likely to be the victim of assault compared to other Australian women: 4.9 times in New South Wales, 9.1 times in South Australia, and 11.4 times in the Northern Territory. In 2015, Aboriginal and Torres Strait Islander women were 32 times more likely to be hospitalised as a result of injuries caused by family violence and twice as likely to be killed by a current or former partner (AIHW, 2018). Many Aboriginal and Torres Strait Islander women do not report for reasons including: fear of reprisals or of having children taken away; lack of confidence in police or community support; language and cultural barriers; and lack of awareness of support services (Willis, 2011). Limited availability of supports for victims/survivors (predominately mothers) to safely maintain the care of their children can lead to the forced separation of children from victims/survivors to ensure their safety from violent parents/carers (SNAICC et al., 2017).

Despite the higher rates, family violence is not inherently part of Aboriginal and Torres Strait Islander cultures. Indeed, evidence suggests that culture is a central and key protective factor that supports family to be free of violence, and community-led strategies can ensure culturally safe and adapted responses that address intergenerational trauma and the complexities underlying violence in each community (SNAICC et al., 2017; The Healing Foundation & White Ribbon Australia, 2017).

IMPACT OF DOMESTIC AND FAMILY VIOLENCE ON ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN

Research has suggested that Aboriginal and Torres Strait Islander children are at greater risk of being exposed to family violence than other children (Cripps, Bennett, Gurrin & Studdert, 2009; Mouzos & Makkai, 2004). Two thirds of victims of physical or threatened violence share the household with children, and in one third of cases the children are under the age of five (AIHW, 2006). A Victorian report found that 88% of Aboriginal and Torres Strait Islander children in out-of-home care had experienced family violence (Commission for Children and Young People, 2016).

Children's exposure to family violence has been recognised as harmful and classified as child abuse for over two decades (Tomison, 2000). The harm can be complex and profound and can include: witnessing violence (Goddard & Bedi, 2010); being used or blamed for the violence; and being involved in trying to stop the violence (Humphreys, 2007). Research has shown that the greater the risk of violence perpetrated against mothers, the more likely violence will be directed at the children and the more likely there will be lack of supervision and neglect (Hartley, 2004). Furthermore, children who witness family violence as children are, in turn, more likely to perpetrate or be a victim of violence in adulthood (AIHW, 2018d). Family violence is a major issue driving involvement with the child protection system in Australia. In 2017-18, emotional abuse, which includes exposure to family violence, was the most common type of substantiated harm for all children (AIHW, 2019d).

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DATA GAPS

INCIDENCE AND PREVALENCE OF DOMESTIC AND FAMILY VIOLENCE REPORTED TO CHILD PROTECTION

There is a lack of data on the number and rate of child protection reports and/or substantiations that relate to family violence by Aboriginal and Torres Strait Islander status. This information would provide a more comprehensive understanding of the intersection of domestic and family violence and the child protection system.

Recommendation: Publication of data describing the rate of child protection reports and substantiations related to family violence across all jurisdictions and by remoteness for Aboriginal and Torres Strait Islander children.

</div>

f) Drug and alcohol

Research demonstrates that parental substance misuse is one of the most significant risk factors for child abuse and neglect (Australian Institute of Family Studies, 2017). Although data are collected about parental

substance use identified as contributing to neglect and abuse by some jurisdictions, data are not routinely collected or published, either as the primary factor or as co-occurring with domestic and family violence and/or parental mental illness (Frederico, Jackson, & Dwyer, 2014). Parental use of alcohol and illicit drugs can adversely impact capacity for parenting, while affected by the substance/s, when withdrawing from addictive drugs, and/or because of criminal behaviours associated with substance misuse (Child Welfare Information Gateway, 2014). Ways in which parenting is affected include: neglect due to impaired functioning, insufficient money for food, and inconsistent parenting (Australian Institute of Family Studies, 2010). Risks to children include the lack of supervision, and physical or emotional abuse.

Substance misuse can also present significant risks to children through conditions developed in utero, such as Fetal Alcohol Spectrum Disorders (FASD). Research has highlighted the limited availability and development of effective FASD interventions, especially for infants and young children, alongside the potential of supports that take a broader ecological approach by recognising the impacts of FASD across multiple domains of functioning (Reid et al., 2015). The lack of identification, diagnosis and provision of family support specific to FASD is being increasingly recognised as a major driver of child protection intervention and placement breakdown due to parents and carers not being equipped with the knowledge and strategies to cope with and manage children's behaviours (Williams, 2017).

It is important to note that parental substance misuse does not present a risk to a child's safety and wellbeing in all cases. Many parents with alcohol and drug issues recognise the possible impacts upon their children and make arrangements to ensure their safety. Nevertheless, for many families, exposure to parental alcohol and substance misuse has been identified as one of the primary reasons for which Aboriginal and Torres Strait Islander children come to the attention of statutory child protection (Commission for Children and Young People, 2016; O' Donnell et al., 2010). Lack of access to treatment and rehabilitation services means the underlying causes that lead to concerns about children cannot be addressed.

Use of alcohol and other drug treatment services is therefore relevant to parental health and wellbeing, and addressing risk factors to children. Figure 21 demonstrates a steady increase in the over-representation of Aboriginal and Torres Strait Islander people in use of treatment services. In 2017-18, Aboriginal and Torres Strait Islander people were 7.2 times as likely to access treatment, up from 6.5 in 2016-17. The drugs leading to treatment – alcohol, amphetamines, cannabis, heroin and volatile solvents – were similar for Indigenous and non-Indigenous clients with the exception of volatile solvents (AIHW, 2019). Treatment is provided for own drug use and for someone else's drug use. The available data does

not detail the quality and effectiveness of available services, nor the prevention and treatment strategies that work best for Aboriginal and Torres Strait Islander people (Snijder & Kershaw, 2019). Furthermore, there is a lack of information in available data on how and whether services, seek to address safety for children. More broadly, there is also a lack of research evidence describing the extent of child-focused practice in alcohol and other drug treatment services (National Centre for Education and Training on Addiction, 2014).

g) Mental health

There is now a significant body of literature documenting the factors influencing the social and emotional wellbeing of Aboriginal and Torres Strait Islander communities, including structural disadvantages experienced across the social determinants of health, including education, employment, discrimination and racism (Calma, Dudgeon, & Bray, 2017). Mental health is one component of an individual's social and emotional wellbeing, which encompasses the "social, emotional spiritual and cultural wellbeing" of an individual and includes their connection to land, culture, spirituality, family and community (Australian Indigenous HealthInfoNet, 2019, para. 1).

As with parental use of alcohol and other drugs, parental mental illness can adversely affect a parent's daily functioning and quality of life, and therefore impact on the quality and consistency of care provided to children. Risks to children include: that physical or emotional needs may not be met, children may be neglected, or children assume a caring role for their unwell parent. Social isolation is a compounding factor (Bromfield, Lamont, Parker & Horsfall, 2010). The presence of mental illness alone does not impact upon a parent's capacity to care for their child. Research demonstrates that with appropriate management and supports, negative impacts on children are reduced (Reupert & Maybery, 2007).

There is a lack of current data on the prevalence of mental illness among Aboriginal and Torres Strait Islander communities. There has been no national survey on the prevalence of mental illness in Australia among adults since the 2007 National Survey of Mental Health and Wellbeing, and the results of that survey were not disaggregated by Indigenous status. The Australian Bureau of Statistics (ABS) uses the Kessler 10 (K10) psychological distress scale as a means of assessing mental health and wellbeing of the population. There is a strong association between high scores on the K10 and diagnosis of affective and anxiety disorders, and a lesser but still significant association between the K10 and other categories of mental illness (Andrews & Slade, 2001). Evidence indicates that psychological distress among Aboriginal and Torres Strait Islander people is linked to contemporary experiences of racism and social exclusion in Australian society, as well as the ongoing impacts of intergenerational trauma and colonisation (Paradies & Cunningham, 2012).

The K10 has been included in National Health Surveys (NHS) since 2010. Participants are asked questions about negative emotional states, with different degrees of severity, experienced in the four weeks prior to interview. There is a five-level response scale for each of the 10 questions, to reflect the amount of time that the respondent experienced those particular feelings. The ABS asserts that very high levels of distress may indicate the need for professional help (ABS, 2012). In the 2014-15 NHS, levels of psychological distress were nationally 2.5 times higher for Aboriginal and Torres Strait Islander people than for non-Indigenous people (see Figure 22) (SCRGSP, 2018). Rate ratios varied across states and territories, with the lowest at just over two times and the highest in the Northern Territory with Aboriginal and Torres Strait Islander people at around four times more likely to report high or very high levels of psychological distress.

Governments invest in different types of mental health services to support recovery. The Medical Benefit Scheme/Veteran Affairs provides mental health services through general practitioners, psychiatrists, psychologists and other allied health professionals. Public mental health services refer to state and territory government specialised mental health services that treat severe mental illness, including acute inpatient psychiatric services and community-based services that provide assessment, treatment, rehabilitation and care (SCRGSP, 2019, 13.2). Figure 23 shows the rate ratios for Aboriginal and Torres Strait Islander and non-Indigenous people receiving clinical mental health services in 2008-09 to 2016-17. In 2016-17, as in previous years, Aboriginal and Torres Strait Islander people were over three times as likely than the non-Indigenous population to use state and territory governments' specialised public mental health services. This was the case for people residing in regional, remote and very remote areas, and in lower socio-economic areas.

The over-representation of Aboriginal and Torres Strait Islander people in acute mental health services suggests that individuals are accessing support in times of crisis. It is important to note that most of these services address the symptoms of mental health issues and not the underlying structural and individual factors that contribute to distress. Although rates of mental health service access are higher for Aboriginal and Torres Strait Islander people, it is not possible to assess whether rates of access meet need (Department of the Prime Minister and Cabinet [DPMC], 2017). Given the well-documented evidence of individual and collective trauma experienced by Aboriginal and Torres Strait Islander communities and its impacts on social and emotional wellbeing, it is unlikely that current services are equipped to deliver the trauma aware, healing-informed approaches that have been shown to promote health and wellbeing (The Healing Foundation, 2019).

FIGURE 21 Rate ratios of Aboriginal and Torres Strait Islander and non-Indigenous clients accessing alcohol and other drug treatment services, 2014-18

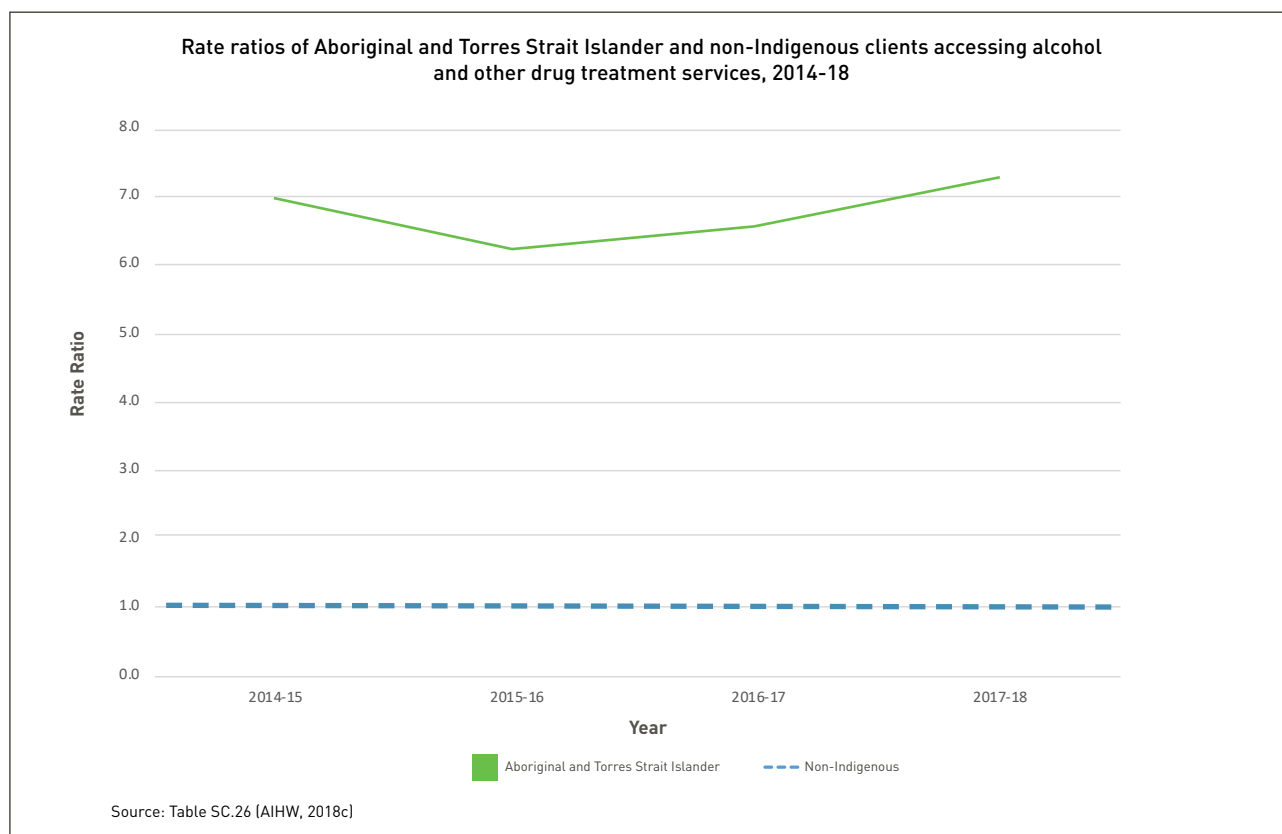Source: Table SC.26 (AIHW, 2018c)

FIGURE 22 Rate ratios of Aboriginal and Torres Strait Islander and non-Indigenous adults with high or very high levels of psychological distress, by jurisdiction, 2014-15

Source: Table 13A.44 (SCRGSP, 2018b)

There are also a number of serious concerns over the appropriateness and cultural safety of mental health services. Analyses conducted on behalf of the Indigenous Health Performance Framework indicates that 30% of respondents to the 2014-15 National Social Survey reported that they had not accessed health care when they needed to in the past 12 months. Of those respondents, 32% reported reasons related to cultural safety, including embarrassment and fear (22%) and mistrust (9%) (DPMC, 2017, p. 164). Systemic racism in health care settings is not only a major barrier to accessing health care for Aboriginal and Torres Strait Islander people, it is associated with quality of care. Research demonstrates that racism can lead to poorer self-reported health status, lower perceived quality of care, failure to follow recommendations, and interruptions of care (Australian Indigenous Doctors' Association, 2017).

FIGURE 23   Rate ratios of Aboriginal and Torres Strait people and non-Indigenous people receiving clinical mental health services, 2008-17

Rate ratios of Aboriginal and Torres Strait people and non-Indigenous people receiving clinical mental health services, 2008-17

Source: Table 13A.15 (SCRGSP, 2019b)
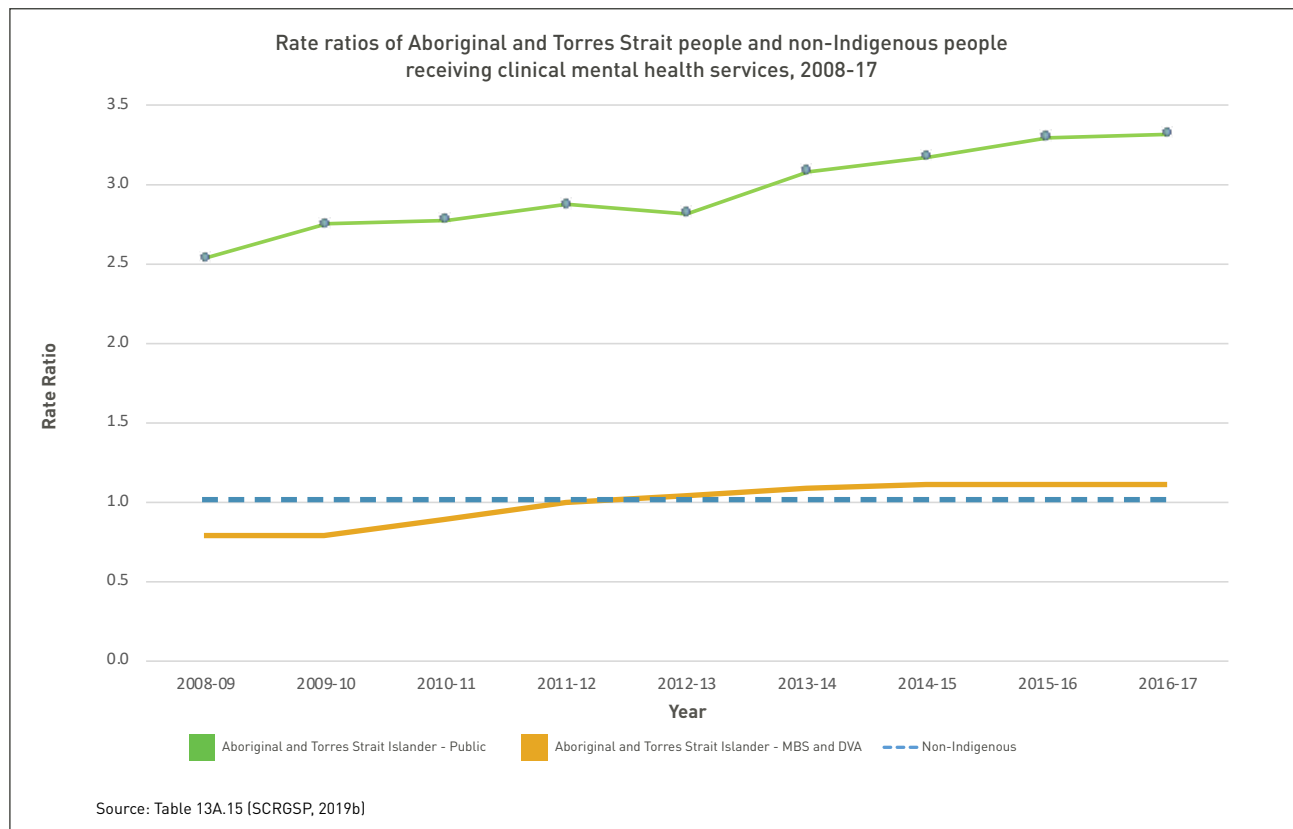
PART 3

PARTICIPATION IN DECISION-MAKING AND RESPECT FOR CULTURE

Part 2 of the report primarily focused on the prevention element of the Aboriginal and Torres Strait Islander Child Placement Principle (Child Placement Principle). Part 3 focuses on state and territory governments' respect for a child's right to culture and the right of Aboriginal and Torres Strait Islander people to participate in decision-making by examining compliance with all five elements of the Child Placement Principle. It includes discussion of the placement hierarchy, practices around cultural planning for children in out-of-home care, as well as the extent to which Aboriginal and Torres Strait Islander families, children and community representatives are enabled to participate in decisions that affect children. It analyses the extent to which governments across Australia enable Aboriginal and Torres Strait Islander participation and partnership in child protection decision-making at the individual and systems levels through laws, policies and practice.

Part 3 relates to all four building blocks of the Family Matters campaign:

- All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive.
- Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children.
- Law, policy and practice in child and family welfare are culturally safe and responsive.
- Governments and services are accountable to Aboriginal and Torres Strait Islander people.

3.1 COMPLIANCE WITH THE PLACEMENT ELEMENT OF THE CHILD PLACEMENT PRINCIPLE

The Child Placement Principle is comprised of five elements (prevention, placement, participation, partnership and connection) and is designed to serve as a framework for holistic, best practice response for families in contact with child protection systems. The principle is often narrowly interpreted as a hierarchy of placement options for Aboriginal and Torres Strait Islander children in out-of-home care.

However, the aims of the principle are much broader, incorporating principles focused on systemic change in service delivery for Aboriginal and Torres Strait Islander children, families and communities (Arney, Lannos, Chong, McDougall, & Parkinson, 2015; Tilbury, Burton, Sydenham, Boss, & Louw, 2013).

In relation to the placement element, the Report on Government Services (RoGS) reports on whether a child is placed with Aboriginal and Torres Strait Islander family or kin, other family or kin, other Aboriginal and Torres Strait Islander carers, or in Aboriginal and Torres Strait Islander residential care (SCRGSP, 2019). However, these data provide only a proxy measure of compliance, as full compliance with the placement element of the principle is not achieved if active efforts are not undertaken to fully explore a child's family and community relationships, and cultural connections to identify potential placements. Application of the placement hierarchy requires child protection decision-makers to exhaust all possible options at one level of the hierarchy before considering a lower-order placement (SNAICC, 2018). Where an Aboriginal and Torres Strait Islander child is placed with non-Indigenous carers, it is vital that his or her carer is supported to facilitate the child's connection to their Aboriginal and Torres Strait Islander family, community, culture and country. Planning should also be undertaken to reconnect children to placements with their family and kin if such a placement has not been identified initially.

PLACEMENT WITH KIN

Figure 24 shows that the rate of placement of Aboriginal and Torres Strait Islander children with family and kin or other Indigenous carers has continued to drop from 74.8% in 2006 to 64.5% in 2018. Notably, Figure 24 also shows that the rate of placement with Aboriginal and Torres Strait Islander carers (excluding non-Indigenous family and kin) has dropped even more dramatically. In one year alone, the rate of Aboriginal and Torres Strait Islander children in out-of-home care placed with Aboriginal and Torres Strait Islander carers dropped significantly from 49.4% in June 2017 to 45% in June 2018.

FIGURE 24 Percentage of Aboriginal and Torres Strait Islander children placed with kin or other Aboriginal and Torres Strait Islander carers, 2006-18
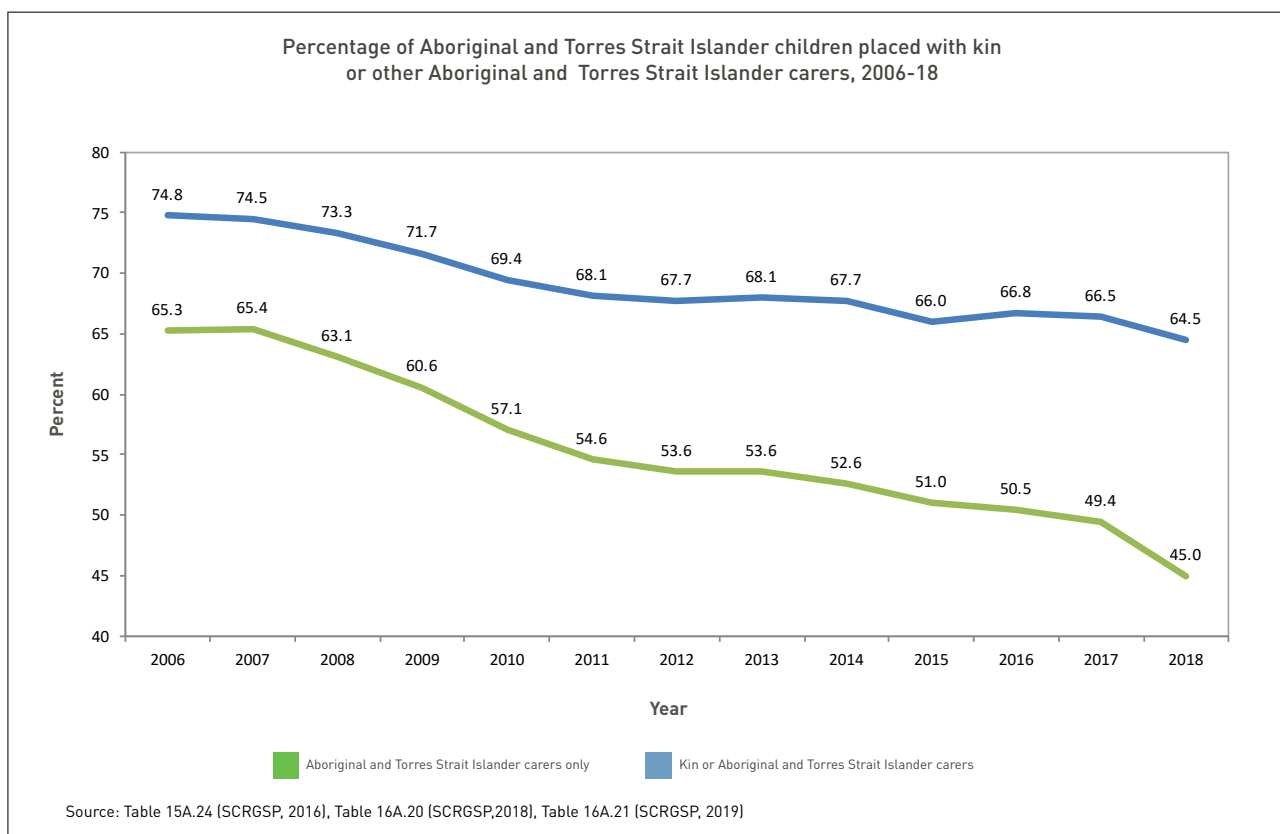

Percentage of Aboriginal and Torres Strait Islander children placed with kin or other Aboriginal and Torres Strait Islander carers, 2006-18

Source: Table 15A.24 (SCRGSP, 2016), Table 16A.20 (SCRGSP,2018), Table 16A.21 (SCRGSP, 2019)

FIGURE 25 Percentage of Aboriginal and Torres Strait Islander children placed with kin or other Aboriginal and Torres Strait Islander carers, by jurisdiction, 2013-18
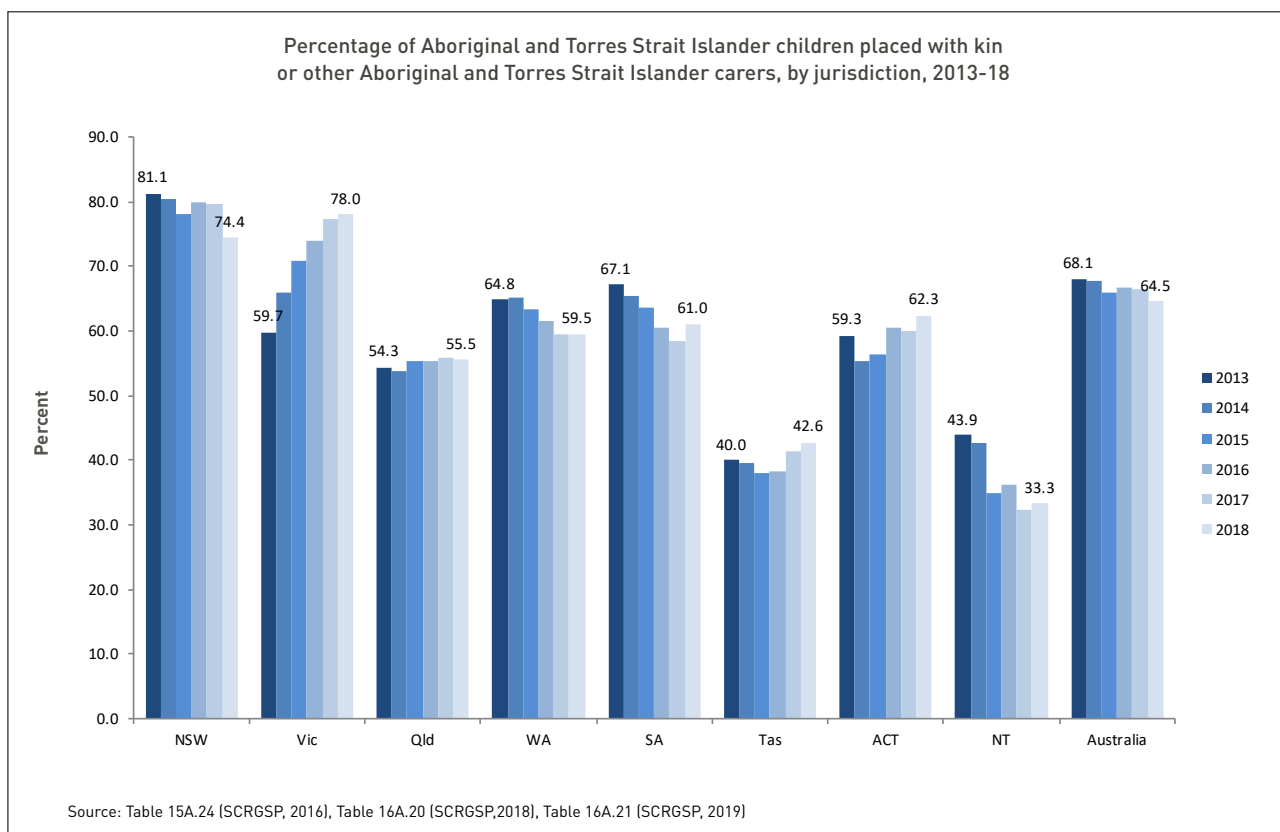

Percentage of Aboriginal and Torres Strait Islander children placed with kin or other Aboriginal and Torres Strait Islander carers, by jurisdiction, 2013-18

Source: Table 15A.24 (SCRGSP, 2016), Table 16A.20 (SCRGSP,2018), Table 16A.21 (SCRGSP, 2019)

NOTE: Tasmania's data in 2018 has issues with accuracy and has been excluded from this figure.

These statistics highlight that Australia is pulling back on its support of Aboriginal and Torres Strait Islander kinship at a rate that is of grave concern. These statistics are even more alarming when considering concerns that have been identified with the inappropriate definition of Aboriginal and Torres Strait Islander kinship. For example:

• The Northern Territory defines family as "anyone who is closely associated with the child or another family member of the child" (*Care and Protection of Children Act 2007 (NT), section 19*).

• The legislation in the Australian Capital Territory defines a kinship carer as a family member or a significant person. A "significant person" is a non-family member who the "child or young person, a family member of the child or young person or the director-general considers is significant in the child's or young person's life" *(Children and Young People Act 2008 (ACT), sections 516 and 14)*.

The use of a broad interpretation of "kin" or "family" means that in most if not all jurisdictions, some Aboriginal and Torres Strait Islander children are being raised by non-Indigenous, non-family members deemed by the state to be, for example, part of their social network or a person of significance to the child.

The result from such a placement can be the varying degree of separation from family and culture, which cannot rightly be deemed as compliant with the intent of the Child Placement Principle. Wide statutory definitions of "kin", that do not truly reflect Aboriginal and Torres Strait Islander kinship, may distort data available on how many Aboriginal and Torres Strait Islander children in out-of-home care are having their cultural rights respected and cultural needs met.

ABORIGINAL AND TORRES STRAIT ISLANDER KINSHIP MUST BE DEFINED BY A CHILD'S FAMILY AND COMMUNITY

Commonly, a wide definition of "kin" has been adopted by statutory agencies to identify placements for children "without meaningful mapping, identification, support and enabling of family members who have a legitimate cultural connection to the child" (QATSICPP, 2018, p. 7). SNAICC recognises that there is more than one definition of Aboriginal and Torres Strait Islander kinship, but it is commonly defined as relating to the biological bloodlines passed between generations. It can also be culturally defined ties that "determine how people relate to each other and, their roles, responsibilities and obligations in relation to one another..." (SNAICC, 2010). What is important is that members of a child's own cultural and family groups are best placed to define a child's kinship connections. They are the only ones who truly understand their own cultural kinship ties.

There may be various factors that account for the decline in the rate of Aboriginal and Torres Strait Islander children in out-of-home care who are placed with Aboriginal and Torres Strait Islander kin nationally. Potential factors include: the inability of statutory authorities to identify appropriate Aboriginal and Torres Strait Islander kin to provide care; the failure to resource Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) with relevant cultural authority to support the identification of kin; lack of supports provided to Aboriginal and Torres Strait Islander carers or potential carers; the use of culturally inappropriate assessment tools to assess potential and existing carers; and difficulties in meeting the eligibility criteria (Bromfield, Higgins, Higgins & Richardson, 2007). Research has highlighted the strain on Aboriginal and Torres Strait Islander families and communities resulting from pressures of additional care while also experiencing higher levels of poverty and disadvantage (Kiraly & Humphreys, 2011). This strain is compounded by lower levels of support provided to kinship carers as opposed to foster carers. Concerns have also been raised regarding potential racism in decision-making leading to the preferencing of non-Indigenous kin placements. These concerns align with literature on the negative impacts of wrongly assumed dysfunction of Aboriginal and Torres Strait Islander communities that contribute to discriminatory child protection intervention (Cuneen, 2015).

Figure 26 shows that Victoria is the only jurisdiction to have an upward trend in the placement of Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers between 2013-18, although the rate was still unacceptably low in 2018 at 46.5%. As highlighted throughout Part 3 of this report, Victoria has consistently invested in a range of programs that support the participation of Aboriginal and Torres Strait Islander families and community-controlled agencies in child protection processes, which may in part explain increasing levels of placement with kinship carers.

In addition, this year we asked state and territory governments to provide us with data on the rate of Aboriginal and Torres Strait Islander children admitted to care in 2017-18 who were placed with relatives/kin or other Aboriginal and Torres Strait Islander carers. Only three jurisdictions provided this data, Queensland, Victoria and the Australian Capital Territory. Victoria reported that 73.2% (653) of children admitted to out-of-home care in 2017-18, were placed with relatives/kin or other Aboriginal and Torres Strait Islander carers. These encouraging numbers in Victoria demonstrate that a number of Aboriginal organisations undertake family finding in the state, emphasising that Aboriginal organisations are best placed to carry out this work. In Queensland, 38.9% (366) of children admitted to out-of-home care in 2017-18, were placed with relatives/kin or other Aboriginal and Torres Strait Islander carers. The Australian Capital Territory reported that 50% (25) of children admitted to out-of-home care in 2017-18

had at least one of their placements with relatives/kin or other Aboriginal and Torres Strait Islander carers.

In the Australian Institute of Health and Welfare (AIHW) and Report on Government Services, placement of Aboriginal and Torres Strait Islander children in residential care settings that are targeted to Aboriginal and Torres Strait Islander children, irrespective of whether they are Indigenous-run services, is counted as compliant with the Child Placement Principle. As the lowest, "last resort" option in the placement hierarchy, a child living in residential care should not be counted as a compliant placement and as such, "Indigenous residential care" placements have been excluded from the data in figures 24, 25 and 26.

In addition, Aboriginal and Torres Strait Islander children on third party parental responsibility orders are excluded from the data reporting the relationship between the child and their carer in Victoria, New South Wales and Western Australia. As such, it is unknown whether these children are placed in connection with their family and culture. The issue of children on permanent care orders being excluded from the out-of-home care count and the impact this has is explored in Part 1 of this report.

FIGURE 26   Percentage of Aboriginal and Torres Strait Islander children placed with Aboriginal and Torres Strait Islander carers, by jurisdiction, 2013-18

Percentage of Aboriginal and Torres Strait Islander children placed with Aboriginal and Torres Strait Islander carers, by jurisdiction, 2013-18

Source: Table 15A.24 (SCRGSP, 2016), Table 16A.20 (SCRGSP,2018), Table 16A.21 (SCRGSP, 2019)
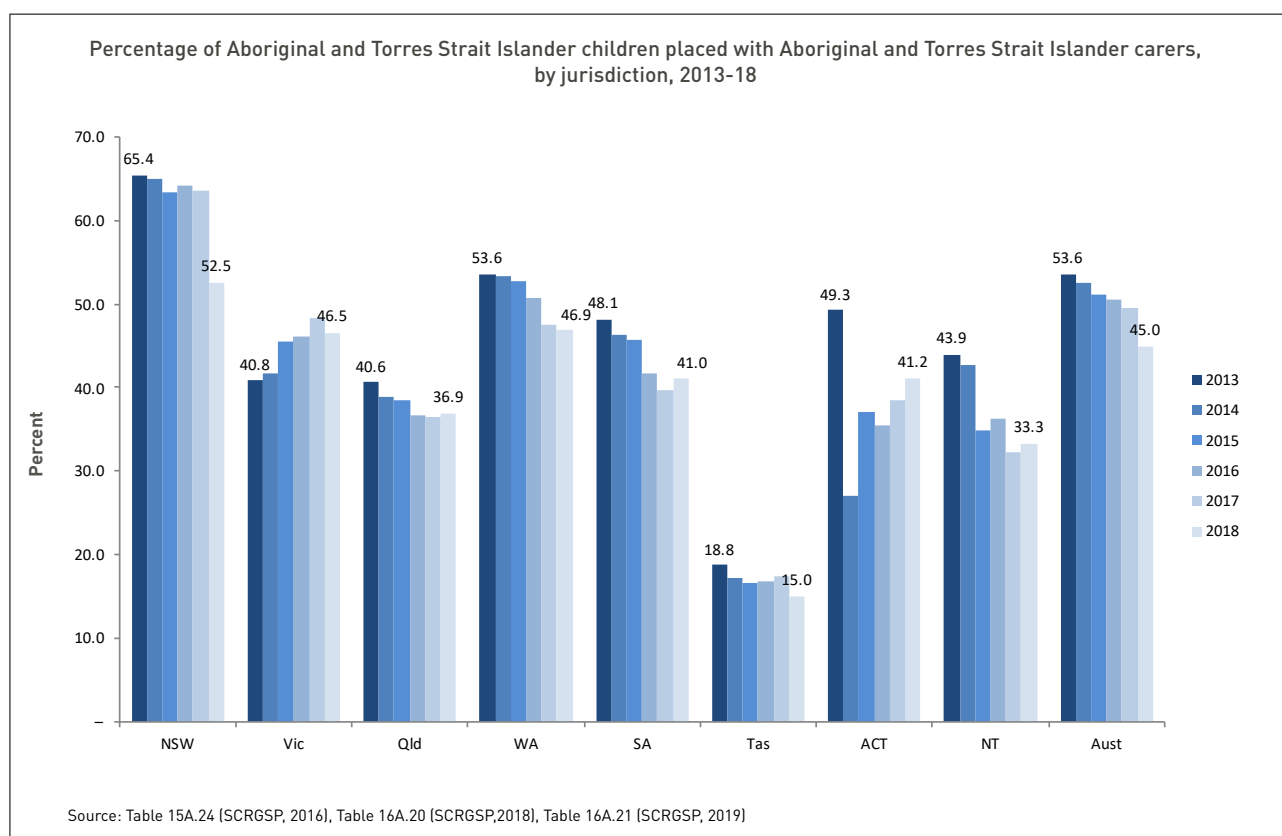
NOTE: Tasmania's data in 2018 has issues with accuracy and has been excluded from this figure.

RECONNECTION

For Aboriginal and Torres Strait Islander children removed and placed in out-of-home care outside of their families and communities, maintaining and developing connections to their families, communities and cultures is essential to their safety and wellbeing (Dockery, 2010). These connections are critical for social and emotional development, identity formation, and physical safety (Lohoar, Butera, & Kennedy, 2014). Where family and community placements cannot be immediately identified, active efforts to identify safe and appropriate Aboriginal and Torres Strait Islander relative and kinship care placements are essential.

States and territories were asked to provide data related to their efforts to find placement options for children at a higher level of the placement hierarchy – often termed "reconnection". These data capture the reconnection of Aboriginal and Torres Strait Islander children in out-of-home care who moved from a non-relative/kinship placement to live with a relative/kinship carer. South Australia, the Australian Capital Territory and Victoria provided relevant data.

South Australia reported that 107 Aboriginal and Torres Strait Islander children who had been living in a non-relative/kinship care placement moved to a relative/kinship care placement during the 2017-18 reporting period. The Australian Capital Territory reported that during 2017-18, 25 Aboriginal and Torres Strait Islander children who had been living in a non-relative/kinship care placement moved to a relative/kinship care placement. Victoria reported that 191 Aboriginal and Torres Strait Islander children who had been living in a non-relative/kinship care placement moved to a relative/kinship care placement during 2017-18.

Queensland did not provide data on reconnection but indicated that they are in the process of developing this data.

DATA GAPS

PLACEMENT WITH ABORIGINAL AND TORRES STRAIT ISLANDER FAMILY, KIN AND OTHER CARERS

Currently, there is limited data available on whether the placement hierarchy has been considered in placement decisions (CCYP, 2015) and whether active efforts are being undertaken to ensure Aboriginal and Torres Strait Islander children's needs and rights of connection are being met in placement decision-making (SNAICC, 2017).

Further, placement type data should be reported with reference to entry cohorts, rather than at a point-in-time, in order to monitor trends over time. Reporting the total number of children in out-of-home care distorts the true picture, since many children have been in out-of-home care for a very long time. Current practices need to be determined with reference to current (annualised) data.

Recommendations:

- National development and reporting of data around the proportion of Aboriginal and Torres Strait Islander children in out-of-home care with completed genograms/family maps; for whom there was consultation with an ACCO in the determination of placement; and for whom there was a family group conference or family-led decision-making meeting regarding placement decisions.

- Exclusion of residential care from data reporting on proxy compliance with the placement hierarchy to recognise that residential care placements do not reflect placement at a high level of the placement hierarchy.

- National development and reporting of annualised entry cohort data by placement type for Aboriginal and Torres Strait Islander children in out-of-home care to determine current practice and trends in placement with family, kin and other Aboriginal and Torres Strait Islander carers.

DATA GAPS

RECONNECTION

While the safe reunification of children with their parents is the primary goal for children coming into out-of-home care, for Aboriginal and Torres Strait Islander children who cannot be reunified and who are placed away from their kin and communities, reconnecting them in a timely way is vitally important to supporting and maintaining their cultural and family ties. Reconnection is the movement of children in out-of-home care from a placement outside of their family and kin to a placement with Aboriginal and Torres Strait Islander relatives or kin where it is safe and in the child's best interest to do so. Currently there is no national data available on reconnection.

Recommendation: National development and reporting of data on children's reconnection to their families, communities and cultures through safe and timely movement to higher-order placements in the Aboriginal and Torres Strait Islander Child Placement Principle hierarchy.

3.2 CULTURAL PLANNING – COMPLIANCE WITH THE CONNECTION ELEMENT OF THE CHILD PLACEMENT PRINCIPLE

Maintaining connections to family, community, culture, and Country are vital for Aboriginal and Torres Strait Islander children in out-of-home care. A child's right to connection is also enshrined in international human rights documents such as the United Nations Convention on the Rights of the Child, which Australia has committed to upholding.

> As a Yorta Yorta woman who spent her earlier years growing up on Country and in community, I felt something was missing when I moved away at the age of 12 … It was my connection to my community and my feet not being grounded on my Country…
>
> I yearned for the years of growing up with my family, friends and community around me. Working with our kids who are not only removed from our families but our community, ignites this fire and passion to make sure that all our kids come back to their Country. – Yorta Yorta young woman who works at Njernda Aboriginal Corporation

The development and implementation of cultural plans (also known as cultural support plans or cultural care plans in some jurisdictions) offer a way to support these connections. Important aspects of cultural planning include the mapping of cultural connections through accurate genealogies, and practical supports and resourcing for Aboriginal and Torres Strait Islander children to connect with and participate in the cultural life of their families and communities (Libesman, 2011).

Requirements or recommendations commonly exist for cultural planning across child protection systems. However, these connections are hindered if plans are not completed, there is a lack of practical supports and resourcing for their implementation, and there is inadequate monitoring of implementation (Libesman, 2011; SNAICC, 2013).

The completion or existence of cultural plans for Aboriginal and Torres Strait Islander children in care is an indicator reported under the National Framework for Protecting Australia's Children 2009-20 (National Framework) and the National Standards for Out-of-Home Care. In 2018, 72.5% of all Aboriginal and Torres Strait Islander children in out-of-home care, who were required to have a cultural plan, were reported as having such a plan (AIHW, 2019). However, this data is limited for a number of reasons. First, the data excludes New South Wales, South Australia and Tasmania. Second, they are restricted to Aboriginal and Torres Strait Islander children who are required by legislation to have a cultural plan, excluding, for example, children on permanent care orders. Third, the data are restricted to the completion of cultural plans and do not indicate the quality of a plan or its implementation. Finally, because there has been a lack of consistency in data provided by states and territories since the Australian Institute of Health and Welfare began reporting on this indicator in 2014, it is not possible to compare data across the last five years.

Further, a CREATE Foundation survey released in December 2018 of young people with an out-of-home care experience indicated that one third of Aboriginal and Torres Strait Islander young people surveyed felt little connection to their culture (CREATE Foundation, 2018). Only 18% of those children surveyed were aware of having a cultural support plan (CREATE Foundation, 2018).

> " My mob comes from Perth and are Noonyar Aboriginals. I think my Nanna comes from somewhere else but I'm not sure. Some ideas I think would be good to help young Aboriginal people would be things like Clontarf. More Aboriginal sports teams, youth workers who are Aboriginal at school and youth groups where kids can do activities. I used to do Ignite (Save the Children) but there's some problems with family so I don't go there anymore. Camps would be good too and we could learn about traditional Aboriginal things. Clontarf went to Kalgoorlie but I didn't go. Also learning more language would be good and art. " – Noonyar young person, Perth, 14 years old

Family Matters has consistently called for the development of meaningful ways to measure the development, quality and implementation of cultural plans for Aboriginal and Torres Strait Islander children in out-of-home care (*The Family Matters Report 2017;*

The Family Matters Report 2018). The Aboriginal and Torres Strait Islander Working Group under the National Framework for Protecting Australia's Children 2009-20 has proposed that given the many and persistent challenges in developing consistent national administrative data that reflects the quality of cultural support planning, a nationally consistent audit process should be adopted. The audit proposes to measure whether cultural plans include: input of children, family members and ACCOs; the child's cultural background, including clan and/or language group and a family genogram; and specific and detailed actions for the maintenance of a child's culture.

In addition to ongoing efforts on progressing data collection, there are some promising initiatives across Australia to support quality cultural planning. For example, the Victorian model for cultural planning that commenced in 2016-17 is contributing to practice development. As part of this model, senior cultural planning advisors within ACCOs support the development of cultural plans and chief executive officers of ACCOs must endorse the plans before they are implemented. Further, a Cultural Planning Implementation Group has been established to oversee the implementation of cultural plans, providing a significant focus on ensuring that plans are followed through. The statewide coordinator for Aboriginal cultural planning is also responsible for leading forums on cultural planning to support the sharing of best practice.

In New South Wales, the Aboriginal Case Management Policy and accompanying Rules and Practice Guidance was recently adopted by the NSW Government. Its development was led by AbSec – NSW Child, Family and Community Peak Aboriginal Corporation, the state's peak body for Aboriginal children, and it provides for oversight on the implementation of cultural plans. However, community-controlled organisations have underscored that there has been little progress to action these provisions in practice.

> " A number of children and young people, aged between 5 and 14, said they need the following things to feel connected:
> - family
> - land and sea
> - Elders
> - friends
> - school/education
> - opportunities
> - internet
> - phone "
>
> - children and young people aged 5-14, Kabi Kabi mob, Queensland

3.3 LEGISLATED AND RESOURCED ABORIGINAL AND TORRES STRAIT ISLANDER PARTICIPATION- COMPLIANCE WITH THE PARTICIPATION AND PARTNERSHIP ELEMENTS OF THE CHILD PLACEMENT PRINCIPLE

Participation of Aboriginal and Torres Strait Islander
people in decisions that affect them is a core human
right (United Nations Declaration on the Rights of
Indigenous Peoples, 2007) and recognised as critical
to decision-making that is informed of and takes
account of the best interests of children, from a cultural
perspective (Committee on the Rights of the Child,
2009a). Participation of children in all matters affecting
them is also a right enshrined in the Convention on
the Rights of the Child. Recognising these rights,
Building Block 3 of the Family Matters campaign
states that Aboriginal and Torres Strait Islander people
and organisations must be able to participate in and
have control over decisions that affect their children.
Participation must extend *beyond* consultation to
genuinely include Aboriginal and Torres Strait Islander
children, families and community representatives in the
decisions that are made about children at all stages of
child protection decision-making.

This section of the report examines legislative
alignment with representative, and child and family
participation; government investment in family-led
decision-making and related models; structures for
representative participation; the extent to which ACCOs
participate in policy development, service design and
systems oversight; and government investment in
service delivery by ACCOs.

a) Legislative alignment with participation

There must be enabling legislation to support and
create accountability for meaningful participation in
practice. The table below reviews the alignment of
each state and territory's child protection legislation
with elements of a human rights based framework
for participation in child protection decision-making
(SNAICC, 2013).

There have been no changes to legislation across
Australia in relation to the five criteria that the
legislation was reviewed against in *The Family Matters
Report 2018* (see the first five criteria identified in
Table 2).

This year, we have included one additional criteria that
child protection legislation will be reviewed against.
The Act mandates that a child has meaningful
opportunities to express his or her views and for
those views to be given due weight throughout the
decision-making process. Model legislation should
ensure, according to the United Nations Committee
on the Rights of the Child, that the "child's views are
solicited and considered including decisions regarding
placement in foster care or homes, development of
care plans and their review, and visits with parents and
family" (Committee on the Rights of the Child, 2009b,
p. 13).

As the table below indicates, a number of state and
territory legislation do not fully align with principles
of participation in child protection decision-making.

Queensland's legislation remains the most
comprehensive in the country in terms of meaningfully
supporting the participation of Aboriginal and Torres
Strait Islander children, families and communities,
and Victorian legislation is also closely aligned to this
purpose. Notably, legislation in both of these states
provides for the delegation of statutory powers to
ACCOs, creating the potential for enabling higher levels
of self-determination and meaningful participation
in child protection matters. However, only Victoria
has exercised this power to date, as discussed in
Part 3.3e below.

Further, Table 2 only indicates whether particular
principles of participation are legislatively enshrined.
It does not provide an overview of what is occurring
in practice in terms of governments ensuring the
meaningful participation of Aboriginal and Torres
Strait Islander children, families and organisations
in decision-making. The discussion below provides
an overview of practice.

b) Family and child participation

Models of Aboriginal and Torres Strait Islander family-
led decision-making (ATSIFLDM) promote meaningful
participation and self-determination of children and
their families in child protection decision-making.

TABLE 2 Alignment of state and territory child protection legislation with elements of participation[i]

	ACT[ii]	NSW[iii]	NT[iv]	QLD[v]	SA[vi]	TAS[vii]	VIC[viii]	WA[ix]
Aboriginal and Torres Strait Islander **self-determination** is a recognised **principle** in the Act.	NO	YES	YES	YES	NO	YES	YES	YES
Aboriginal and Torres Strait Islander **participation and/or consultation** is a decision making principle in the Act.	NO Participation requirements not specific to decision making	YES	YES	YES	NO	YES	YES	YES
Consultation/participation of an **external** Aboriginal and Torres Strait Islander agency is expressly **required for all significant decisions.**	NO Submissions considered	YES Required by principle, but no enabling process is specified	NO	YES	NO	NO	NO Required by agreed protocol, but not legislation	NO
Consultation with an **external** Aboriginal and Torres Strait Islander agency is expressly **required prior to placement decisions.**	NO	YES	NO	YES	YES	NO	YES	NO Internal or external consultation
Input from **external** Aboriginal and Torres Strait Islander agencies is expressly **required** in **judicial decision-making.**	NO Limited input requirement for long-term orders	NO	NO	NO	YES For placement decisions only	NO Evidence and submissions considered	YES For permanent care orders only	NO
The Act mandates that a child has **meaningful opportunities** to express his or her views and for those views to be **given due weight throughout the decision-making process.**	YES Does not stipulate how children's views will be responded to and taken into account in all processes	YES	YES	YES	YES Does not stipulate how children's views will be responded to and taken into account in all processes	YES	YES Does not stipulate how children's views will be responded to and taken into account in all processes	YES

GREEN – Legislation aligned   **RED** – Legislation not aligned   **GREY** – Limited / significantly qualified alignment

Note: Legislatively enshrining mechanisms that facilitate meaningful participation of families in decision-making is important. However, as there is no clear or consistent standard for legislating family participation mechanisms, a specific criterion on this is not included in Table 2. Part 3.3b of this report examines how family participation can be meaningfully enabled in the context of child protection.

They provide opportunities to bring Indigenous cultural perspectives and worldviews to the fore in decision-making, ensuring respect for Indigenous values, history and unique child rearing strengths (Drywater-Whitekiller, 2014; Ban, 2005).

Aboriginal and Torres Strait Islander family-led decision-making processes that have already been implemented in some states and territories are largely based on New Zealand's family group conferencing model with adaptations to enable unique Aboriginal and Torres Strait Islander decision-making processes supported by independent Aboriginal and Torres Strait Islander facilitators and agencies (Ipsos & Winangali, 2017; AbSec's Connecting Voices program, 2019;

DHHS, 2019). Independent Aboriginal and Torres Strait Islander facilitators and agencies play a critical role in family-led decision-making in line with research that indicates that family-led decision-making models are in danger of being ineffective to empower families and communities where they remain wholly controlled and operated by non-Indigenous professionals and services (Ban, 2005). While strong partnerships with government child protection services are essential to any model of family-led decision-making, Australian trials have demonstrated the strengths and success of Aboriginal and Torres Strait Islander family-led decision-making processes led by ACCOs (Ipsos & Winangali, 2017).

There has been some recent progress across Australia to increase implementation of family-led decision-making by Aboriginal and Torres Strait Islander facilitators and agencies and related processes. Following Queensland's successful trial between 2016-17, the Queensland Government rolled out a Family Participation Program across the state, which commenced in 2018 – and is providing funding to 15 ACCOs to support Aboriginal and Torres Strait Islander families to participate in child protection decision-making. Victoria continues its long-standing statewide program, which has strong involvement by ACCOs. A model of family group conferencing was trialled successfully in the Australian Capital Territory in partnership with Curijo, an Aboriginal business. Preliminary data provided by the Australian Capital Territory Government indicates that between November 2017 and May 2019, family group conferences were held in relation to 65 Aboriginal and Torres Strait Islander children. Forty-four of those children were successfully prevented from entering care. The Australian Capital Territory Government is rolling out the model across the jurisdiction, committing $1.44 million in the 2018-19 budget.

c) Structures for representative participation

In addition to families and children being supported to participate in decision-making at the individual level, it is important to ensure that ACCOs, as independent community-controlled organisations, are properly resourced to participate in matters affecting Aboriginal and Torres Strait Islander communities. In the child protection context, representative participation and having a meaningful participatory role means guaranteeing the involvement of Aboriginal and Torres Strait Islander community representatives, external to statutory agencies, in all service design and delivery, as well as in individual child protection case decisions. This includes involvement in case decisions at intake, assessment, intervention, placement and care, and judicial processes.

There has been some progress over the past year to advance this objective, though, as with last year, only Victoria and Queensland have Aboriginal and Torres Strait Islander services across regions that are specifically resourced to fulfill roles needed to participate in child protection decision-making on a statewide basis (SNAICC, 2013). In South Australia, there is only one centralised service operating across a very limited scope of decision-making points.

In Western Australia, a recent legislative review recommended that a representative ACCO must be consulted before a placement decision about an Aboriginal child is made and an ACCO should be provided with the opportunity to participate in the development of a child's cultural plan (Department of Communities (WA), 2017). The proposed legislative changes and resourcing for representative organisations to conduct this work are yet to be significantly progressed.

CASE STUDY

ABORIGINAL FAMILY AND KIN CARE MODEL AND FAMILY AND KIN CARE PILOT PROGRAMS, NORTHERN TERRITORY

Recognising that Aboriginal children in out-of-home care should be placed with their families and that Aboriginal community-controlled organisations are best placed to find placements for Aboriginal children, the Northern Territory is currently undergoing significant reform in relation to family and kin care.

Funded by Territory Families, Children Safe, Family Together is a new family and kin care model for the Northern Territory that was developed by Tangentyere Council Aboriginal Corporation (Tangentyere Council) through extensive consultation and drawing upon the expert advice and support of the Victorian Aboriginal Child Care Agency (VACCA). The model provides a comprehensive approach to identifying, recruiting and supporting Aboriginal family and kin carers that is evidence-based and responsive to unique community needs.

The new model proposes a four-phase approach to family and kin care, which when viewed as a whole represent the life cycle of a placement from start to end:

Phase one – A child is at risk of entering or has entered out-of-home care.

Phase two – Potential family and kinship carers are assessed for a child.

Phase three – A placement is set up to succeed.

Phase four – The placement thrives and children remain connected to their families, communities and culture.

Each phase is made up of a distinct set of components. The model drills down into each of these components, providing specific information identifying every action that needs to be undertaken in each phase, including who has responsibility for which action within the context of the lifecycle of a child's family and kin care placement.

Full implementation of the four phases and their corresponding components will ensure that Aboriginal children who are subject to removal from the family home are placed into safe, stable and supported family and kin care placements.

A key focus of the model is increasing Aboriginal and Torres Strait Islander self-determination and community control, and ensuring that families and communities are involved in key decision-making processes around the care and protection of their children. Attached to the model is a blueprint for implementation that can be tailored to the needs of individual communities within the Northern Territory. These implementation guidelines also offer strategies for building the capacity of Aboriginal community-controlled organisations to deliver family and kin care-based services.

The Northern Territory Government has endorsed the model and committed to its full implementation across a five-year period. The model was officially launched by the Minister of Territory Families and the CEO of Tangentyere Council in September 2019.

Kin Care Pilot Programs

Alongside policy reform, Territory Families has funded Ngurratjuta/ Pmara Ntjarra Aboriginal Corporation, Larrakia Nation Aboriginal Corporation and Tangentyere Council to pilot kin care programs. Territory Families has supported these Aboriginal organisations to take the lead in finding family for Aboriginal children who are unable to live with their parents and recruiting and supporting Aboriginal kin carers. Since these programs were introduced, 42 Aboriginal children have been placed with Aboriginal carers (an increase of 18% since the previous year).

Sources: Children Safe, Family Together (Tangentyere Council), Territory Families

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d) Participation in legislation and policy development; service design; and systems oversight

In addition to participation of ACCOs in individual child protection cases, meaningful participation also requires the genuine inclusion of Aboriginal and Torres Strait Islander community representatives in legislation and policy development; service design; and oversight of the systems and services that impact children's safety and wellbeing. ACCOs must be viewed as equal partners in these processes and their involvement is necessary

to ensure that laws, policies and practice in child and family welfare are culturally safe and responsive (Building Block 2) and that governments and services are accountable to Aboriginal and Torres Strait Islander people (Building Block 3).

> Holding forums to hear the voice of young people and the issues that they face in their community. Ask the youth what they need and want rather suspecting and judging. Holding empowering youth summits. – Young person from the Biripi Mob, Taree, 24 years old

LEGISLATION, POLICY AND SERVICE DEVELOPMENT

Participation in the development of policies, legislation and services is enabled to varying degrees across jurisdictions through the establishment and resourcing of Aboriginal and Torres Strait Islander peak bodies. Peaks operate in Queensland and New South Wales, with a dedicated focus on the child protection and family services sector, and at the national level through SNAICC – National Voice for our Children. Significant policy participation roles are also resourced in Victoria through the Victorian Aboriginal Child Care Agency (VACCA) and the Victorian Aboriginal Children & Young People's Alliance. While there is no statewide peak in Western Australia, the recently established Noongar Family Safety and Wellbeing Council works to provide a strong voice for Noongar children and families and advocate on their behalf.

It is important to note, however, that the establishment and resourcing of peak bodies does not constitute meaningful participation if these bodies are not appropriately consulted in the development of laws and policies that affect Aboriginal and Torres Strait Islander children, families and communities. For example, in late 2018, the NSW Government in a regressive step passed significant child protection legislative amendments without meaningful consultations with Aboriginal and Torres Strait organisations and communities in the state. The NSW Government did, however, work in partnership with AbSec to develop the Aboriginal Case Management Policy and the accompanying Rules and Practice Guidance handbook, recently endorsed by Family and Community Services.

ABORIGINAL CASE MANAGEMENT POLICY, NEW SOUTH WALES

In 2017, Family and Community Services New South Wales (FACS), now known as the Department of Communities and Justice, commissioned AbSec, as the peak organisation for Aboriginal children and families in the state, to lead the development of the Aboriginal Case Management Policy and the accompanying Rules and Practice Guidance handbook. The policy seeks to respond to the specific needs of Aboriginal families and children across the child protection continuum, with a strong focus on prevention and early intervention, and oversight of policy implementation through Aboriginal community-controlled mechanisms. AbSec consulted widely with Aboriginal communities and non-Indigenous stakeholders before developing the resource and the policy is considered to be holistic and culturally responsive. In 2019, the policy was endorsed by the department.

Community-controlled organisations have stressed the need for the Aboriginal Case Management Policy to be properly resourced and immediately implemented in genuine partnership with AbSec and Aboriginal communities and their organisations. In particular, the appropriate mechanisms for ongoing oversight by and accountability to Aboriginal communities that form part of the policy must be implemented to ensure that the department is held accountable to its commitments.

Source: AbSec – NSW Child, Family and Community Peak Aboriginal Corporation

Participation in the design of services is also critical for ensuring their cultural responsiveness. The Family Wellbeing Services in Queensland, discussed in the below case study, are an example of the positive outcomes that eventuate when Aboriginal and Torres Strait Islander people take the lead in the design and delivery of services for Aboriginal and Torres Strait Islander families and children.

While state and territory governments are primarily responsible for child protection services, the federal government's laws, policies and services also significantly impact the drivers of, and responses to, child removals. For example, policies on income support and early childhood education and care have a direct impact on family wellbeing. There have been some positive steps at the federal level to ensure Aboriginal and Torres Strait Islander participation in the design of policies aimed at improving outcomes for Aboriginal and Torres Strait Islander children and families. For example, the Aboriginal and Torres Strait Islander Working Group within the National Framework plays a significant role in driving the work of the Fourth Action Plan of the Framework as it relates to Aboriginal and Torres Strait Islander children.

ABORIGINAL AND TORRES STRAIT ISLANDER FAMILY WELLBEING SERVICES, QUEENSLAND

The Queensland Government has upheld its *Our Way* strategy commitment to support community controlled service design and delivery by investing $34.34 million per annum to roll out 33 Aboriginal and Torres Strait Islander Family Wellbeing Services to support families who may be experiencing vulnerability across the state.

These services work with various culturally appropriate universal, secondary and specialist services; placement services; Family Participation Program services; and with individual families to provide tailored, holistic and coordinated supports to meet each family's unique needs. This includes working to strengthen families with early intervention to prevent concerns from escalating, to intensive family supports for families that are already in contact with the child protection system.

Data from the first 12 months of operation demonstrate that the 33 Aboriginal and Torres Strait Islander organisations that deliver early intervention support to families have achieved half the rate of re-notifications to the department compared with mainstream, non-Indigenous organisations (Lewis, 2019). Further, according to government data, 67% of families who accessed these services had their cases closed with all or the majority of their needs met, or at least some of their needs met.

Source: Queensland Department of Child Safety, Youth and Women

This work includes developing national indicators of implementation of the Child Placement Principle and monitoring compliance of all states and territories with all five elements of the Principle.

The Joint Council on Closing the Gap (Joint Council), established in December 2018, also has the potential to place Aboriginal and Torres Strait Islander people at the forefront of developing solutions to social disadvantage. The Joint Council is responsible for finalising all draft Closing the Gap targets, reviewing the National Indigenous Reform Agreement and developing an independent, Aboriginal and Torres Strait Islander-led approach to the evaluation and review of progress to meet the targets nationally and in each jurisdiction. Draft targets have included a focus on addressing over-representation of Aboriginal and Torres Strait Islander children in out-of-home care.

Despite this progress, there are also examples of policies at the federal level that were developed with minimal input from Aboriginal and Torres Strait communities yet have adverse impacts on them. For example, the ParentsNext program requires parents with young children to participate in "activities" in order to receive parenting payments. If a parent fails to complete the "activities" and report their compliance,

they face financial sanctions in the form of payment suspensions, reductions or cancellations. The program is mandatory for women who have received parenting payments during the last six months, have not been employed during that period, have a child under six years old and meet at least one high risk/high priority criteria. Aboriginal and Torres Strait Islander parents comprise 19% of ParentsNext participants but make up just 3% of the adult population nationwide (NFVPLS, SNAICC, & HRLC, 2019). The federal government has stated that the program is aimed at supporting parents to return to, or secure employment after having children (Department of Human Services, 2019). However, the program has been found to be punitive, causing vulnerable families to fall further into poverty (Community Affairs References Committee, 2019a), and exacerbating certain drivers of child protection intervention.

Following an inquiry into the program, the Senate Community Affairs References Committee recommended that the ParentsNext program undergo reforms to redress the structural barriers to employment faced by participants (Community Affairs References Committee, 2019b). Punitive approaches to systemic social issues have not been found to be effective (Klein & Razi, 2018).

At the state and territory level, Aboriginal and Torres Strait Islander participation has been strengthened where comprehensive strategies for reform have been developed in collaboration with Aboriginal and Torres Strait Islander leaders, targeting whole of government actions to improve safety and wellbeing for children. This is most evident in Queensland and Victoria. In Victoria, *Wungurilwil Gapgapduir: Aboriginal Children and Families Agreement*, was signed in 2018 and is the first tripartite agreement between the Aboriginal community, the child and family services sector and the government. The agreement sets out a partnership approach to improving outcomes for Aboriginal children and young people in Victoria. The accompanying action plan outlines specific steps to address over-representation, with the Victorian Government committing $53.5 million to implement the agreed-upon strategies. The agreement and action plan aim to progress self-determination for Aboriginal peoples by ensuring that Aboriginal organisations are fully resourced to participate in program design and delivery. The implementation of the agreement is overseen by the Aboriginal Children's Forum, comprised primarily of ACCOs working in the sector.

In Queensland, the *Our Way* strategy represents a dedicated, 20-year strategy to eliminate the over-representation of Aboriginal and Torres Strait Islander children in the statutory child protection system. The Queensland First Children and Families Board was established to ensure Aboriginal and Torres Strait Islander oversight of the strategy's implementation. Western Australia has recently announced a commitment to consulting with SNAICC – National

Voice for our Children and local Aboriginal communities to develop a new "action plan" to reduce over-representation. This plan will be formed around the four building blocks of the Family Matters campaign and will seek to follow Queensland's *Our Way* strategy. It is anticipated that the action plan will be introduced in early 2020.

Family Matters has consistently called for this kind of comprehensive Aboriginal and Torres Strait Islander children's strategy, with an accompanying Aboriginal and Torres Strait Islander oversight mechanism, to improve outcomes for children at the national level.

Finally, there are significant movements towards increasing self-determination at the higher level of relationship between Aboriginal and Torres Strait Islander peoples and governments that have the potential to increase community leadership on the safety and wellbeing of children and families. These include the Uluru Statement from the Heart, and its call to enshrine a First Nations Voice in the Australian Constitution and the development of treaties between some state and territory governments and Aboriginal and Torres Strait Islander peoples.

SYSTEMS OVERSIGHT AND REVIEW

Participation in systems oversight and review is important for ensuring that governments across Australia are accountable to Aboriginal and Torres Strait Islander people (Building Block 4). Accountability is enhanced by the appointment of Aboriginal and Torres Strait Islander children's commissioners. Given that Aboriginal and Torres Strait Islander children and young people experience disproportionately high levels of disadvantage and discrimination, dedicated commissioners could play a vital role in providing a voice for Aboriginal and Torres Strait Islander children and ensuring a dedicated focus on advancing their rights.

No progress has been made in the appointment of a national commissioner for Aboriginal and Torres Strait Islander children and young people. There are four states that have a position identified for an Aboriginal or Torres Strait Islander person in the role of commissioner for children or assistant commissioner ¬– Victoria, the Northern Territory, South Australia and Queensland – with only Victoria and South Australia supporting the operation of a dedicated commissioner for Aboriginal children and young people. Community representatives in many of the other jurisdictions have been calling for dedicated commissioners to be established but have had limited success to date.

THE NEED FOR A NATIONAL COMMISSIONER FOR ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND YOUNG PEOPLE

Aboriginal and Torres Strait Islander children and young people around the country experience widespread and persistent discrimination and disadvantage, impacting on current and future generations. There is an urgent need and imperative to establish a dedicated national commissioner for Aboriginal and Torres Strait Islander children and young people to provide improved oversight and accountability for systems and services to improve the protection of the rights of Aboriginal and Torres Strait Islander children and young people.

A dedicated national commissioner should form part of the Australian Human Rights Commission on equal footing with the existing commissioner roles. The national commissioner should be established in conformity with the United Nations benchmark guidelines for national human rights institutions, known as the 'Paris Principles'. To achieve this, the role of the national commissioner must:

• be established by legislation to ensure its independence and autonomy from government

• be filled by an identified Aboriginal and Torres Strait Islander person with appropriate qualifications, knowledge and experience, appointed through a transparent process

• be mandated with a clear scope and purpose for the role

• be granted appropriate functions and powers to promote systemic change and accountability, this includes powers to conduct inquires

• be adequately resourced to perform its role effectively.

Commissioners with similar powers and functions should also be established in every state and territory. State and territory commissioner roles currently in place, as mentioned above, should be reviewed against the Paris Principles and updated to ensure sufficient functions, powers and consistency.

e) Investment in service delivery by Aboriginal and Torres Strait Islander community-controlled organisations ACCO

In order to effectively respond to the needs of Aboriginal and Torres Strait Islander children and families and ensure that Aboriginal and Torres Strait Islander peoples' right to participation and self-determination are fulfilled, ACCOs must be adequately funded to design and deliver programs that reflect the needs of the communities in which they work.

International and Australian evidence strongly supports the importance of Indigenous participation for achieving positive outcomes in service delivery for Indigenous children and families. Studies in the United States have found that the best outcomes in community wellbeing and development for Indigenous peoples are achieved when those peoples have control over their own lives and are empowered to respond to and address the problems facing their own communities (Cornell & Taylor, 2000). Canadian research has shown a direct correlation between increased Indigenous community-control of services and improved health outcomes for Indigenous peoples (Lavoie et al., 2010) and a direct connection between Indigenous self-government and reduced rates of youth-suicide (Chandler & Lalonde, 1998).

Existing ACCO-led and delivered programs in Australia, such as: the Aboriginal and Torres Strait Islander Family Wellbeing Services in Queensland (discussed in a case study above); the transfer of Aboriginal children to the care of ACCOs in Victoria (discussed in the following case study); and multifunctional Aboriginal children's services (MACS) and Aboriginal child and family centres across Australia (discussed in Part 2) have also seen promising results.

Numerous Australian reports and inquiries confirm a lack of robust community governance and meaningful Indigenous community participation as major contributors to past failures of government policies (ANAO, 2012; Cunneen & Libesman, 2002; NSW Ombudsman, 2011). These reports commonly highlight the importance of building the capacity of Aboriginal and Torres Strait Islander community-controlled children and family services. The Australian National Audit Office (ANAO) found that building the role and capacity of ACCOs is not only important for effective service delivery, but 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 (ANAO, 2012). Twenty years ago, the *Bringing Them Home* report concluded that community development approaches to addressing child protection issues were needed, not traditional models of child welfare that "pathologise and individualise Indigenous child protection needs" (HREOC, 1997, pp. 453-454).

The evidence confirms the effectiveness of Indigenous-led service design and delivery in consistently producing better results, and links Indigenous community empowerment to broadly positive social and emotional wellbeing outcomes for community members. However, effectiveness can only be sustained through adequate resourcing of Aboriginal and Torres Strait Islander community-controlled child protection and family support services.

States and territories were invited by the Family Matters co-chairs to provide data on their investment in Aboriginal and Torres Strait Islander community-controlled child protection and family support services in 2017-18, using the Report on Government Services definitions and counting rules. This year, four jurisdictions provided data. Data provided by the Australian Capital Territory, Western Australia, the Northern Territory and Queensland are not comparable due to different inclusions in the data.

The Australian Capital Territory provided data on expenditure on family support services only, of which 6% went to one ACCO to support child, youth and family service programs in 2017-18, and in 2018-19. This percentage was the same in the 2016-17 reporting period, though there was no specification of which services were funded in that period.

Notably, data from Western Australia are very different to data reported by other states and territories as the total expenditure provided in each category is only for external funded services, not the total state investment, meaning that percentage funding to Aboriginal and Torres Strait Islander agencies appears higher than it would if the total budget funding was reported. Western Australia reported that in 2017-18, 11% of family support and intensive family support funding, and 11% of total out-of-home care funding, went to Aboriginal community-controlled services. Western Australia also reported that 13% of expenditure on family and domestic violence support services went to community-controlled services. Overall, 12% was reported as being expended on community-controlled services, in comparison with 10% in 2016-17.

The Northern Territory provided the following data on expenditure to ACCOs:

- 1.8% of family support funding went to ACCOs (a decrease of 5.2% since 2016-17)
- 14.9% of intensive family support funding went to ACCOs
- 0.3% of child protection funding went to ACCOs (a significant decrease of 10.7% since 2016-17)
- 2% of funding to out-of-home care services went to ACCOs.

Overall, ACCOs received just 2.4% of funding spent on child protection, out-of-home care and family support services in the Northern Territory. This indicates that service delivery continues to be dominated by non-Indigenous providers that provide limited cultural safety for Aboriginal and Torres Strait Islander clients.

Queensland provided data indicating that in 2017-18:

• 19.6% of family support funding went to ACCOs (a significant increase of 6.4% since 2016-17)

• 34% of intensive family support funding went to ACCOs (an increase of 5.4% since 2016-17)

• 45% of child protection funding went to ACCOs

• 2.6% of out-of-home care funding went to ACCOs.

Queensland also provided data for expenditure in 2018-19 across these same four categories, reporting expenditure of 20.2%, 31.4% (a decrease of 2.6% since 2017-18), 44% and 2.6% respectively on ACCOs.

Overall, community-controlled services received 14% of funding spent on child protection, out-of-home care, family support and intensive family support services in Queensland in 2017-18, and 13.5% in 2018-19. Due to extensive specification of inclusions and exclusions, these details are available separately accompanying the Queensland Government update on the Family Matters website.

CASE STUDY

ABORIGINAL CHILDREN IN ABORIGINAL CARE, VICTORIA

In Victoria, Aboriginal Children in Aboriginal Care is the program name, which enables s18 of the Children Youth and Families Act 2005 (Vic.). Section 18 enables the Secretary of the department to authorise the principal officer of an Aboriginal agency to perform specified functions and exercise specified powers conferred on the Secretary by or under this Act in relation to a protection order in respect of an Aboriginal child.

Section 18 allows an authorised Aboriginal community-controlled organisation (ACCO) to assume responsibility for the child's case plan and case management. The ACCO will be responsible for managing the child's protection order and any court ordered conditions. The ACCO will also oversee all day-to-day decision making for the child and be responsible for their safety.

As part of this process, VACCA launched its Nugel program in November 2017. Nugel is the Wurundjeri word for "belong". Nugel has led the way in developing a new model of child protection practice, which is premised on Aboriginal organisations working in partnership with Aboriginal families to achieve better outcomes for Aboriginal children and young people. Nugel is committed to involving children and families in decision-making and case planning. Nugel promotes Aboriginal self-determination in order for children to grow up resilient with self-belief and identity, knowing who they are and where they belong.

In 2018, 36 children were transferred to Nugel. Five of these children, who had previously been on Family Preservation Orders, were assessed to be living in a stable home environment with their family and were able to be discharged from an order safely. Two children (from two different families) were able to be returned to the full-time care of their parents after intensive work from Nugel case managers in engaging previously disengaged parents.

The Bendigo and District Aboriginal Co-Operative (BDAC) in regional Victoria launched a similar program called Mutjang Bupuwingarrak Mukman, which means "keeping kids safe" in the Dja Dja Wurrung language. The program currently has 36 Aboriginal children with plans to increase this number to 72 in 2020 and 110 in 2021 (VACYP, 2019). According to the Victorian Aboriginal Children & Young People's Alliance, "During the pilot program all children remained connected to their culture and communities, half were placed into kinship care and half were reunified with their parents" (VACYP, 2019).

Two other ACCOs in Victoria are in the process of gaining authority to case manage Aboriginal children. By June 2020, 216 Aboriginal children will be authorised to an ACCO.

Sources: Victorian Aboriginal Child Care Agency and Victorian Aboriginal Children & Young People's Alliance

DATA GAPS

STATE AND TERRITORY DATA ON EXPENDITURE ON ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN AND FAMILIES AND COMMUNITY-CONTROLLED SERVICES

Reported data by some jurisdictions are limited in showing the percentage of expenditure on family support, intensive family support and child protection services targeted to Aboriginal and Torres Strait Islander children and families, and/or delivered by community-controlled agencies. These data are needed to ensure a better understanding of the costs of service provision for Aboriginal and Torres Strait Islander children, and relative investment in culturally safe and targeted interventions that could prevent their entry to out-of-home care, or promote early reunification or restoration with family.

THE INDIGENOUS EXPENDITURE REPORT

Two key gaps need to be addressed concurrently in the collection and reporting of Indigenous expenditure data, through the Productivity Commission's Indigenous Expenditure Report, to provide a meaningful indication of the extent to which community-controlled services are enabled to respond to the needs of children and families:

1. Indigenous expenditure data needs to include child protection and family support services.
2. Data must differentiate between Indigenous-specific service delivered by community-controlled organisation and those delivered by governments and mainstream services.

The available data on investment in family support services has significant comparability issues because there is no nationally agreed upon definition of family support service with variations in types and levels of support across jurisdictions.

Recommendation: The federal, state and territory governments urgently progress the development and reporting of nationally consistent data that identifies expenditure on child protection and family support services both provided to Aboriginal and Torres Strait Islander children and provided by community-controlled services.

CONCLUSION AND KEY RECOMMENDATIONS

Successive Family Matters reports have shown that we have yet to turn the tide on over-representation of Aboriginal and Torres Strait Islander children in out-of-home care – in fact, overall, the data represents that the situation is getting progressively worse. While genuine efforts are underway in many jurisdictions to improve safety and wellbeing for Aboriginal and Torres Strait Islander children and families, the Family Matters campaign believes that the crisis of child protection intervention will only be acted on at the pace required if the Commonwealth and state/territory governments commit to and work together as a coalition towards an Aboriginal and Torres Strait Islander children's strategy, in partnership with our leaders and communities.

The National Framework for Protecting Australia's Children 2009 – 2020 (the National Framework) is the current policy approach led by the Council of Australian Governments (COAG) for ensuring the safety and wellbeing of Australia's children, and aims to deliver a reduction in rates of child abuse and neglect. The National Framework is nearing its end date in 2020. Efforts through the National Framework have proved inadequate to achieve substantial change for Aboriginal and Torres Strait Islander children with their over-representation in out-of-home care continuing to rise year on year. It is now all but certain that at the conclusion of the Framework in 2020 we will have regressed significantly in the achievement of the Framework's goal that "Indigenous children are supported and safe in strong, thriving families and communities to reduce the over-representation of Indigenous children in child protection systems" (COAG, 2009, p. 28).

However, with the end of the National Framework, there is an important opportunity to identify and implement new approaches to improve safety and wellbeing for Aboriginal and Torres Strait Islander children, and strengthen the policies, programs and services that are working well. Concurrently, all Australian governments are renewing the broader framework and targets for the Closing the Gap initiative in partnership with Aboriginal and Torres Strait Islander peaks, with a draft target to address the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care considered by the Council of Australian Governments in December 2018. As the experience of the National Framework highlights, this target will only be achieved through a more concerted and coordinated effort at the national level to ensure Aboriginal and Torres Strait Islander children are safe and have the opportunity to thrive.

This year, our key recommendations are structured around the Family Matters Roadmap building blocks for change. These provide a strong starting point from which to improve Aboriginal and Torres Strait Islander child safety and wellbeing and empower our families and communities to care for and protect future generations.

We recommend:

NATIONAL STRATEGY

1. **Develop a national comprehensive Aboriginal and Torres Strait Islander children's strategy that includes generational targets to eliminate over-representation and address the causes of Aboriginal and Torres Strait Islander child removal. The Family Matters Roadmap, which has been developed through extensive review of the evidence and consultation with leading Aboriginal and Torres Strait Islander experts, provides a vision and clear strategies to inform a strategy for achieving fundamental change to policy and practice. The strategy is an overarching approach that will support implementation and progress in achieving the recommendations that follow, in alignment with the Roadmap's building blocks for change.**

   While the National Framework's focus on priorities for Aboriginal and Torres Strait Islander children has improved in recent years, it has proved inadequate to achieve substantial change for Aboriginal and Torres Strait Islander children – a dedicated strategy that targets the drivers of child protection intervention is essential. The strategy will serve as a coordination point for a number of related national strategies, including the Closing the Gap Refresh, the Indigenous Health Performance Framework and the National Plan to Reduce Violence Against Women and their Children (2010-2022), around their efforts to improve outcomes for Aboriginal and Torres Strait Islander children to ensure a cross-portfolio approach.

Building Block 1

All families enjoy access to quality, culturally safe, universal and targeted services necessary for Aboriginal and Torres Strait Islander children to thrive

2. **Establish a target and strategy to increase investment in universal and targeted early intervention and prevention services, including family support and reunification services, with a focus on community-led initiatives.**

   As we near the end of the National Framework proportional investment into early intervention has not risen despite the Framework advocating for greater investment. A clear strategy and target are critical to drive a shift to a public health model with strong prevention and early intervention measures.

   As a component of the national Aboriginal and Torres Strait Islander children's strategy, this focus would drive investment in evidence-based and culturally safe early childhood education and care, maternal and child health, trauma, healing and family support services, as well as family violence prevention and response. It would assist in redressing the adult-related issues impacting the care of children.

   An increase in proportional investment to early intervention cannot safely be achieved by simply shifting funding from an already stretched child protection and out-of-home care sector. What is needed is the foresight of governments to invest more in and recognise the long-term cost and societal benefits of early intervention that are born out in the evidence.

3. **Establish a target and strategy to increase access to preventative early years services in early childhood education and care (ECEC), maternal and child health, and family support, including investing in quality Aboriginal and Torres Strait Islander community-controlled integrated early years services through a specific program with targets to increase coverage in areas of high Aboriginal and Torres Strait Islander population and high levels of disadvantage.**

   The evidence shows us that greater access to maternal and child health services, and early childhood education and care, can increase the resources and knowledge available to families to deal with child protection concerns.

   The early years sector offers one of the most powerful opportunities for changing the trajectory of Aboriginal and Torres Strait Islander children and families. Aboriginal Child and Family Centres and Multifunctional Aboriginal Children's Services offer a unique type of support for our children and families that is culturally grounded, holistic, trauma-informed and responsive to the complex and multi-faceted needs facing children and families that are experiencing high levels of vulnerability. These services provide an essential lifeline for children and families that are unable or unwilling to access mainstream services due to experiences of both racial discrimination and culturally inappropriate practices. However, many services are under-resourced to reach their potential, and have faced high levels of funding instability and cuts over recent years.

   The move to subsidy-based and market-driven models of childcare designed for working families, through reforms introduced in 2018, has only increased concern about the future effectiveness and viability of these vital preventive services. A well-resourced Aboriginal and Torres Strait Islander ECEC sector is an essential and indispensable component to preventing trajectories that lead to child protection intervention and must be supported.

Building Block 2

Aboriginal and Torres Strait Islander people and organisations participate in and have control over decisions that affect their children

4. **Prioritise investment in service delivery by community-controlled organisations in line with self-determination. Investment should reflect needs and be proportionate to the engagement of Aboriginal and Torres Strait Islander families within child protection systems.**

    This report identifies the critical importance of Aboriginal and Torres Strait Islander-led service delivery to improving outcomes for children.

    It is essential that services are strengthened and supported so that Aboriginal and Torres Strait Islander people lead the service design and delivery and the decision-making for our children. However, the limited data available on investment in Aboriginal and Torres Strait Islander agencies demonstrates that investment is vastly disproportionate to the level of engagement of our families in child protection.

    Investment in community-controlled organisations should be proportionate to the engagement Aboriginal and Torres Strait Islander families involved with child protection systems.

    Many investment approaches have moved away from non-competitive needs-based funding to competitive tendering processes. There are also limitations due to tightly constrained service delivery models and contract requirements that do not allow our agencies to design community-driven approaches for achieving the desired outcomes.

    Note: Further recommendations to increase Aboriginal and Torres Strait Islander child, family and community participation in decisions for children are integrated throughout all Family Matters Report recommendations.

Building Block 3

Law, policy and practice in child and family welfare are culturally safe and responsive

5. **An end to legal orders for permanent care and adoption for Aboriginal and Torres Strait Islander children, replaced by a focus on supporting the permanence of their identity in connection with their kin and culture.**

    Aboriginal and Torres Strait Islander people must be provided with opportunities to design alternative policies to support stability for Aboriginal and Torres Strait Islander children in connection with kin, culture and community. Although Family Matters recommends that permanent care orders or adoption not be used for our children, where permanent care orders are used, they must never be applied without clear evidence that the Aboriginal and Torres Strait Islander Child Placement Principle has been fully applied, and without the endorsement of an Aboriginal and Torres Strait Islander agency. Legislation should be put in place in every state and territory to require that an Aboriginal and Torres Strait Islander agency must approve the making of a permanent care order for any Aboriginal and/or Torres Strait Islander child.

    Permanence for Aboriginal and Torres Strait Islander children is developed from a communal sense of belonging; experiences of cultural connection; and a stable sense of identity including knowing where they are from, and their place in relation to family, mob, community, land and culture (SNAICC, 2016).

    This report demonstrates that inadequate efforts are being progressed to support families to stay together, or to ensure children's connections to culture and family are maintained. In these circumstances, the pursuit of permanent care orders, particularly within limited mandated legal timeframes, presents an unacceptable level of risk to our children's stable sense of identity and cultural connection.

6. **Adopt national standards to ensure family support and child protection legislation, policy and practices are in adherence to all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle, including requirements for:**

    a. increased representation of Aboriginal and Torres Strait Islander families, children and communities at each stage of the decision-making process, including through independent Aboriginal and Torres Strait Islander family-led decision-making

    b. increased investment in reunification services to ensure children are not spending longer in out-of-home care than is necessary due to inadequate planning and support for parents; and increased investment in support services for families once children are returned

    c. increased efforts to connect Aboriginal and Torres Strait Islander children in out-of-home care to family and culture, through cultural support planning, family finding, return to country, and kinship care support programs.

Governments and services are accountable to Aboriginal and Torres Strait Islander people

7. **Establishment and resourcing of roles and bodies that enable participation of Aboriginal and Torres Strait Islander people in policy and service design and in the oversight of systems impacting their children, including state-based and national Aboriginal and Torres Strait Islander children's commissioners.**

   If genuine self-determination and Aboriginal and Torres Strait Islander-led co-design are to emerge, then formal roles must be established for Aboriginal and Torres Strait Islander people to oversee and guide policy and service design and implementation, and to hold governments and services accountable to Aboriginal and Torres Strait Islander children.

   Aboriginal and Torres Strait Islander peak bodies are needed in each jurisdiction to enable a community-controlled sector representative voice that can direct the response to child protection concerns based on Aboriginal and Torres Strait Islander perspectives. Peaks have critical roles to play in legislation and policy development and in the support and establishment of quality and effective community-controlled service systems.

   The scale and specificity of the issues impacting Aboriginal and Torres Strait Islander children also calls for dedicated commissioners nationally and in each state and territory. Their role is pivotal in providing Aboriginal and Torres Strait Islander leadership to advocate for both children and families on the one hand, and legislative and departmental transformation on the other. They would be responsible for investigating and shining the light on necessary issues, monitoring progress and brokering solutions.

8. **Development and publication of data to better measure the situation of the over-representation of Aboriginal and Torres Strait Islander children in child protection systems. As a priority we call on all jurisdictions to address gaps in the data that they provide for the Family Matters report as outlined in this report.**

   Current data sets do not track progress against the things that matter most for improving safety and wellbeing for Aboriginal and Torres Strait Islander children. What is required is a much broader set of data that can meaningfully indicate whether the needs of Aboriginal and Torres Strait Islander children and their rights to healthy development and connection with community, family and culture are being met in their interactions with child protection systems.

   Future data development should take account of identified gaps throughout this report.

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APPENDIX I: PROJECTION OF OVER-REPRESENTATION IN OUT-OF-HOME CARE BY STATE AND TERRITORY

DISPROPORTIONALITY BY STATE/TERRITORY

Figure A1 shows the percentage increase of the out-of-home care population in each of the states and territories from June 30, 2011 to June 30, 2018, with the red bars indicating increases of the Aboriginal and Torres Strait Islander population and the green bars that of non-Indigenous population.

In all jurisdictions, the percentage increase in the Aboriginal and Torres Strait Islander out-of-home care population exceeds that of the non-Indigenous out-of-home care population. In the Northern Territory, the non-Indigenous out-of-home care population actually shrank by more than 13.6% while the Aboriginal and Torres Strait Islander out-of-home care population increased by more than 90.2%. Victoria and the Australian Capital Territory exhibit the largest percentage increase among the jurisdictions, with the Aboriginal and Torres Strait Islander out-of-home care population more than doubling. Queensland and New South Wales exhibit the smallest percentage increase in the Aboriginal and Torres Strait Islander out-of-home care population among the jurisdictions. However, New South Wales has the largest increase in number of children (an increase of 2935 children) and thus contributed the most to the national increase (an increase of 8063 children).

CHANGES IN THE OUT-OF-HOME CARE POPULATION RELATIVE TO CHANGES IN THE GENERAL POPULATION OF CHILDREN BY TERRITORY

In view of the fact that the Aboriginal and Torres Strait Islander population of children age birth to 17 in all jurisdictions increased by only 6.6% from 2010-11 to 2017-18, on average – ranging from 0.4% in the Northern Territory to 11% in Victoria – the percentage increase of the Aboriginal and Torres Strait Islander out-of-home care population is highly disproportionate to the percentage increase of the Aboriginal and Torres Strait Islander general population of children. This disproportionality is most pronounced in the Northern Territory, where the Aboriginal and Torres Strait

Islander general population increased by only 0.4% while the Aboriginal and Torres Strait Islander out-of-home care population increased by 90.2%, giving a ratio of 225.5 times. In Victoria, the percentage increase in the Aboriginal and Torres Strait Islander out-of-home care population is almost 15.0 times that of the percentage increase in the Aboriginal and Torres Strait Islander general population. The disproportionality across other jurisdictions is 23.6 times in Western Australia, 19.5 times in the ACT, 8.1 times in Tasmania, 12.5 times in South Australia, 10.0 times in New South Wales, and 3.3 times in Queensland.

Figure A2 shows the ratios of Aboriginal and Torres Strait Islander and non-Indigenous out-of-home care population projections across the states and territories, using the normalised Aboriginal and Torres Strait Islander and non-Indigenous populations in 2018 as a starting point. Once again, the projected Aboriginal and Torres Strait Islander and non-Indigenous out-of-home care populations in each jurisdiction were calculated using the average annual population growth rate in each jurisdiction from 2010-11 to 2017-18. The ratios indicate the disparate and widening gaps between Aboriginal and Torres Strait Islander and non-Indigenous out-of-home care populations. A value of one indicates that the ratio of Aboriginal and Torres Strait Islander and non-Indigenous populations would be maintained at the 2018 level if nothing were done to change the observed growth rate. In this estimation, if nothing is done to change the current trend – the disparity in rate ratio of Aboriginal and Torres Strait Islander and non-Indigenous populations in the Northern Territory will be 3.1 times as serious as it was in 2018. While a 10-year projection is a long-term estimate that may not come to pass, it does serve as a stark reminder of how serious and urgent the problem is and how each year-delay in remedying the disparity compounds the problem. In Tasmania, the rate ratio in 2028 is projected to reach more than 2.5 times the 2018 level if the observed pattern of growth does not change. In the other jurisdictions, the ratios range from 1.2 in New South Wales to 1.7 in the ACT. Regardless of the magnitude, the message is clear: in order to stop the growing disparity in rates of out-of-home care between Aboriginal and Torres Strait Islander and non-Indigenous children changes need to happen in each and every jurisdiction.

Percentage increase of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care, by jurisdiction, 2011-18

Percentage increase of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care, by jurisdiction, 2011-18

Number of children on Third-party Parental Responsibility Order added to OOHC data for NSW, VIC and WA for consistency reason.
Source: Tables 16A.1 and 16A.2 from Chapter 16 Child protection services (SCRGSP, 2019) ; Child Protection Australia (AIHW, 2016 to 2019)
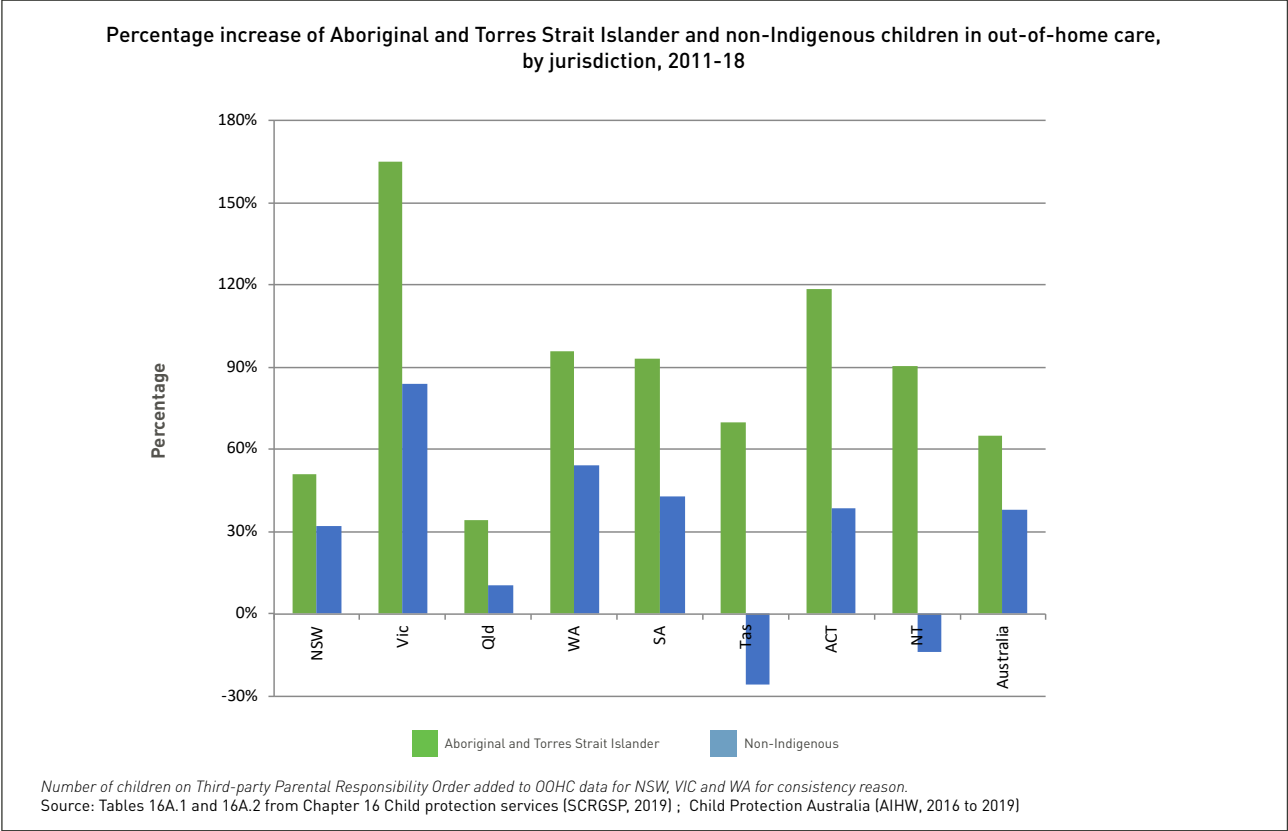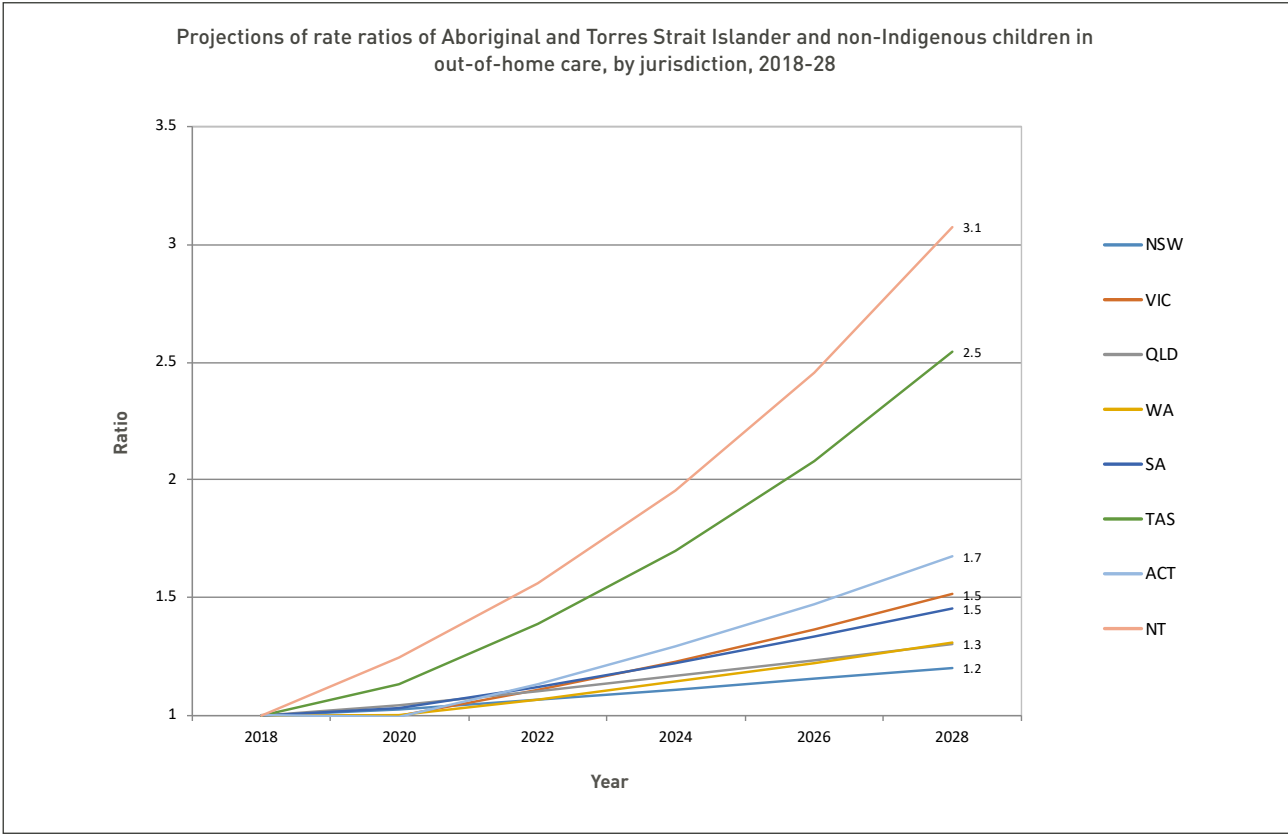
FIGURE A2 Projections of rate ratios of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care, by jurisdiction, 2018-28

Projections of rate ratios of Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care, by jurisdiction, 2018-28

APPENDIX II: METHOD FOR THE PROJECTION SCENARIO

The projections of out-of-home care population shown in Figure 6 were calculated using the average annual population growth rates (APGR). Theoretically, a more complex model that is dynamical (is a function of time and space) and state-dependent (i.e., the population in each year depends on the population in previous periods) may be constructed and used in projecting future populations. However, due to the limitation of data and the lack of well-verified population dynamics models, only the APGR is used for projections.

The aim is to show one possible path of population growth for Aboriginal and Torres Strait Islander and non-Indigenous children in out-of-home care, assuming that each population will continue to grow at the APGR based on the years 2010-11 to 2017-18. Lower and upper limits of the projected populations were estimated using the minimum and maximum APGR of the respective populations from the same period. This provides a good perspective on what to expect if the APGR is different from the mean APGR.

For ease of interpretation, all numbers in the model have been scaled to a base population of 1000 (i.e., there are far more non-Indigenous children in the Australian population, so growth rates were standardised to a base population of 1000 in order to facilitate the comparison of growth rates within each population). There are also several important caveats that are listed in Appendix III. These caveats highlight that the figures presented in the scenario have to be interpreted with caution. Due to the simplified nature of the projections, the figures shown in the example may not come to pass.

APPENDIX III: CAVEATS FOR THE PROJECTION SCENARIO

Caveats as a result of the model restrictions:

- To avoid problems due to changes in the counting rules. Only data from recent years (2010-11 to 2017-18) were used to obtain the APGR for out-of-home care populations. Therefore, the figures we present are merely gross estimates and may change as data are improved and extended.

- States and territories exhibit very different trends and legislation differs significantly between States and territories. An example is the introduction of a new policy in New South Wales, which led to a sharp increase in discharges of children to guardianship from out-of-home care as part of the *Safe Home For Life* legislative reforms (AIHW, 2016).

- In New South Wales, Victoria and Western Australia, children on third-party parental responsibility order (or equivalent orders) have been excluded from the counts of children in out-of-home care. In order to create a consistent time series of out-of-home care population, on consultation with AIHW (private communication by email), we have added the number of children on third-party parental responsibility order to the count of children in out-of-home care for New South Wales (2014-15 onward, Victoria (2017-18), and Western Australia (2015-16 onward).

- Unlike more complex models, the scenarios presented in the projections do not explicitly incorporate the re-enforcing feedback from exits to notifications via re-reports. This shortcoming is due to the fact that we have no data on the nature and timing of re-entry to out-of-home care.

- Restricted by the availability of data, the current model used in pathway scenarios does also not account for any system capacity constraints. In other words, the model allows the population of children in out-of-home care to grow without limit. As this assumption is unlikely to hold in reality, the trajectories in the model have to be interpreted with this shortcoming in mind. This is particularly relevant for figures that are projected further into the future.

APPENDIX IV: METHOD FOR THE REPORT CARD TABLE

The Report Card table on page 14 makes a subjective assessment of *highlights* and *lowlights* and a corresponding *traffic light* designation in relation to state and territory progress on aligning legislation, policy and practice with each of the four building blocks of the Family Matters campaign. Assessments are Aboriginal and Torres Strait Islander community-sector led and have been developed with review and input of state Family Matters jurisdictional representatives and peak Aboriginal and Torres Strait Islander agencies, where they exist.

The methodology interrogated specific data points in the report that align most accurately to each of the building blocks when considering the framework detailed in the Family Matters Roadmap. A number of data points in the Family Matters report are not provided by jurisdiction and, as a result, these were excluded from the Report Card assessment. In line with the campaign's commitment to support self-determination, commentary provided in the Community Voices section of this report has been given significant weight in making assessments. The specific data points considered in identifying highlights and lowlights were:

- **Building Block 1:** Prevention and early intervention investment and service access data, including early childhood education and care; child protection system over-representation and investment in community-controlled prevention and early intervention. Australian Early Development Census (AEDC) outcomes data was not included.

- **Building Block 2:** Resourcing of Aboriginal and Torres Strait Islander representative organisations to participate and enable family participation in case decisions; Aboriginal and Torres Strait Islander peak body roles in policy design; delegation of statutory functions to ACCOs; investment in ACCO service delivery.

- **Building Block 3:** Placement of Aboriginal and Torres Strait Islander children with Aboriginal and Torres Strait Islander carers and kin; rates of reunification; permanency reform safeguards for cultural connection; programs for cultural support planning and implementation; ACCO out-of-home care case management roles and delegation of statutory functions; resourcing of Aboriginal and Torres Strait Islander peak body roles in sector development.

- **Building Block 4:** Aboriginal and Torres Strait Islander system reform oversight and monitoring bodies, including Aboriginal and Torres Strait Islander representative bodies and children's commissioners; development of strategies to address over-representation and monitoring and evaluation approaches; provision of additional data requested to inform the Family Matters report.

ENDNOTES

i   This table is up to date as at 6 August 2019.

ii   *Children and Young People Act 2008 (ACT).*

iii   *Children and Young Persons (Care and Protection) Act 1998 (NSW).*

iv   *Care and Protection of Children Act 2007 (NT).*

v   *Child Protection Act 1999 (Qld).*

vi   *Children and Young People (Safety) Act 2017 (SA).*

vii   *Children, Young Persons and Their Families Act 1997 (Tas).*

viii   *Children Youth and Families Act 2005 (Vic).*

ix   *Children and Community Services Act 2004 (WA).*

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