

CHILD PROTECTION AND SOCIAL SERVICES SYSTEM

Organisation: NSW Coalition of Aboriginal Regional Alliances

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NSW Coalition of Aboriginal Regional Alliances

Committee on Children and Young People
Parliament House
Macquarie Street
SYDNEY NSW 2000

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Dear Committee

Please find attached the NSW Coalition of Aboriginal Regional Alliances submission to the Parliamentary Inquiry into the child protection and social services system.

If you have any questions please do not hesitate to contact [REDACTED]

Kind regards

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Des Jones
Co-Chairperson

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18 December 2020

NSW Coalition of Aboriginal Regional Alliances

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NSW Council of Aboriginal Regional Alliances (NCARA)

Submission to Parliamentary Inquiry into child protection and social services system

Recommendations

That the committee consider making the following recommendations:

- Aboriginal children and young people should, wherever possible, be placed with family members or within their kinship network.
- Aboriginal children and young people should be supported to remain connected to families, communities and culture regardless of their living arrangements.
- Service providers and employees of the Department of Communities and Justice should be required to undertake training in cultural awareness and trauma informed practices.
- Training of child protection case workers should be redesigned to ensure they learn how to effectively work with Aboriginal families and the success of the approach evaluated.
- Aboriginal community controlled services should be expanded to address the specific needs of Aboriginal children and young people. The expansion of these services should be adequately funded.
- The number of Aboriginal caseworkers in the Department of Communities and Justice should be increased to ensure a cultural lens is applied throughout case management.
- All case workers should have sustainable workloads to ensure that children and families are properly supported.
- The NSW Government invest in holistic prevention and early intervention that supports families and diverts children from the out of home care system.
- The voice of Aboriginal children, families and communities are considered in strategies to address the rate of Aboriginal children in out of home care.
- Government invest in partnerships with local Aboriginal communities to reform service pathways and commission models of care that protect and support children, young people and families at risk.
- Government to support Aboriginal-led, evidence-based programs that are embedded in local communities.

That the committee review and consider:

- The findings and recommendations of the Family is Culture independent review of Aboriginal children and young people in out of home care.
- The findings of the 2020 Family Matters report on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care

About NCARA

Local Decision Making (LDM) is an initiative under OCHRE (the NSW Government plan for Aboriginal affairs) underpinned by the principle of self-determination, and aims to ensure that Aboriginal communities have a genuine voice in determining what and how services are delivered to their communities. NCARA and the regional alliances have a key role in advocating for better services and service delivery to the Aboriginal community.

NCARA is made up of Chairpersons or delegates from Regional Alliances participating in Local Decision Making. NCARA and the NSW Government have an Accord that commits to working in partnership to meet the following outcomes:

- Decreasing the number of Aboriginal youth entering the juvenile justice system, including incarceration rates and recidivism; and
- Improving early childhood outcomes for Aboriginal children under 5, giving consideration to school-readiness, participation in pre-school education, health outcomes and family engagement.

Key facts

- Aboriginal and Torres Strait Islander children are receiving child protection services at almost 8 times the rate for non-Indigenous children and are in out-of-home care at almost 11 times the rate of non-Indigenous children (Australian Institute of Health and Welfare 2020).
- As the proportion of Aboriginal and Torres Strait Islander children being placed in out-of-home care has increased, the proportion placed according to the Aboriginal Child Placement Principle has decreased. In NSW the rate of Aboriginal children not placed with relatives/kin, other Aboriginal carer or Aboriginal residential care was just over 25 per cent (Overcoming Indigenous Disadvantage Report, 2020).
- Aboriginal and Torres Strait Islander children are less likely to be reunified with their families. In 2018-19 only 26% of Aboriginal and Torres Strait Islander children in out-of-home care had a possibility of reunification compared to 37% of non-Indigenous children. Of those children identified as having a possibility of reunification, only 19% of Aboriginal and Torres Strait Islander children were reunified (Family Matters Report, 2020).
- The 2020 Family Matters report has also found that NSW has had the greatest decline in the placement of children with Aboriginal carers of any state, from 64.9% to 51.5% between 2014 and 2019. It also found that Aboriginal children in out-of-home care in NSW are at serious risk of permanent separation from their families with 81% (16,287) of Aboriginal children are on permanent guardianship, custody or third-party parental responsibility orders Australia-wide, NSW was the worst of any state with 7,126 children.

Limitations of the current system

Lack of cultural awareness in the current system

Systemic racism and a lack of understanding for Aboriginal families, parenting practices, knowledge of community and kinship roles have contributed to the systemic distrust and the overrepresentation of Aboriginal people in most social determinants.

The difference in parenting styles in Aboriginal family's needs to be viewed through a cultural lens that does not privilege the dominant white paradigm (Walker & Shepherd, 2008; Ryan, 2011).

Penman (2006) compared examples of parenting approaches with four different Aboriginal and Torres Strait Islander families; two in remote areas on mainland Australia, one from an urban area, and one Torres Strait Islander family. Although there were differences, traditional Indigenous values and practices were evident in all four families. These exemplars of traditional values in action include modes of discipline, developmental and social expectations and the role of kinship.

The Healing Foundation's 2019 Report '*A theory of change for healing*', states that: "strategies to address Aboriginal and Torres Strait Islander disadvantage will continue to fail unless they are underpinned by trauma-informed healing approaches that recognise the devastating impacts of colonisation and subsequent government policies" (Healing Foundation, 2019. A theory of change for healing).

The Family is Culture Review noted the work of Wesley-Esquimaux and Smolewski which suggested that the presence of complex or endemic post-traumatic stress disorder in Aboriginal cultures originated as a direct result of historic trauma transmission. The authors argued that while substance abuse, mental health issues, and poverty may exacerbate the effects of intergenerational trauma, the root cause of this trauma was colonisation and its subsequent effects. Currently, law, practice and policy does not address this trauma and more needs to be done to ensure such trauma is taken into account especially regarding the placement of Aboriginal children outside of their family/kinship network.

Current literature indicates that there are gaps in services being provided to young Aboriginal and Torres Strait Islander people that do not enrich and build strong cultural identity and points of connection. Providing opportunities to connect is imperative for young people, this includes improving the way organisations engage with Aboriginal and Torres Strait Islander children and their families, recognising the impact of intergenerational trauma, and respecting cultural diversity.

Current interventions and responses are inadequate

Time limits to transition children out of out of home care (OOHC) arrangements (whether State or NGOs) have been prescribed by states and territories through recent law and policy reforms. These limits range from as little as six months in the Northern territory up to a maximum of two years in other jurisdictions such as Victoria. While there is considerable evidence to suggest that children should be exited into a permanent relationship as soon as possible, this should not be done in a way that can exacerbate the potential for harm— in this case particularly harm associated with becoming disconnected from culture.

Further to this, one of the defining points of OOHC is the introduction of "permanent care orders". A key feature of a PCO is that once removed from OOHC and placed on a PCO, the State generally no longer has any legal responsibility for the child's upbringing. Although the implementation of PCOs is appealing from a neoliberal cost saving and organisational efficiency perspective, there are gaps in addressing ongoing cultural connection.

While there are general legislative provisions to develop a cultural care plan for Indigenous children under statutory care schemes, the plans do not have to be reviewed. Without a

mandated, ongoing statutory review of an Indigenous child's cultural care plan, or ongoing support for the carer family, a real possibility exists that Indigenous children will lose a meaningful connection to their cultural identity once placed on a PCO.

In August 2015, the Australian Senate Community Affairs References Committee released its Out of Home Care report ('Care Report') which found that overwhelmingly, outcomes for children and young people in OOHHC remain poor. It supported concerns raised about Indigenous children in 'legal permanent arrangements' (such as a PCO) remaining connected to culture.

In NSW, for example, the Baird government advocated strongly for adoption placement to be outsourced to the private sector whilst simultaneously pushing to increase the rate of adoptions in NSW. This included travelling around NSW in what was described as an 'adoption roadshow' to encourage departmental caseworkers to give adoption higher priority.

The 'fast-tracking' of adoption has led to new arrangements with organisations such as Barnardos, which are designed to further the government's 'fast track' agenda. It has emerged that such arrangements are failing families. These failures include ignoring recommendations from caseworkers about the parenting ability of the birth mother, failing to keep the birth mother properly informed throughout the process and fast-tracking adoption despite family reunification remaining the preferred option.

The literature currently indicates that there are gaps in services being provided to young Aboriginal and Torres Strait Islander people that do not enrich and build strong cultural identity and points of connection. Providing opportunities to connect is imperative for young people, this includes improving the way organisations engage with Aboriginal and Torres Strait Islander children and their families, recognising the impact of intergenerational trauma, and respecting cultural diversity.

(Child safe organisations, 2020 <https://chilsafe.humanrights.gov.au/diverse-needs/cultural-safety>).

Current services are under resourced and fail to meet the needs of Aboriginal families and communities

The current system is failing vulnerable children and families who do not have access to timely and culturally appropriate psychological and therapeutic supports to reduce the impact of trauma on their mental health and wellbeing.

According to the Family and Community Services NSW, "a wide range of prevention and early intervention initiatives are available in NSW, delivered by non-government organisations and by NSW Government and Commonwealth Government agencies." These services, however, are not wide "reaching" and do not meet the distinct needs of the Aboriginal Community.

Although Aboriginal and Torres Strait Islander people make up almost 8 times the rate for non-Indigenous children in the system, the great majority of services are delivered by non-Aboriginal organisations. Therefore, there must be greater investment in the community-controlled sector to ensure that Aboriginal children and families are receiving culturally appropriate support and are able to maintain a connection to culture.

Under the Closing the Gap agreement there is a target to reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent by 2031. To

meet this target and address the unacceptable rate of Aboriginal children being removed from their families the current system must change, including:

- Better funding of prevention and early intervention services
- more contact between families and children, speciality young children to maintain the relationships and bonds
- Families have access to advocates and legal supports
- More Counsellor services for whole families
- Holistic supports that recognise the intersections between housing, contact with the justice system and the removal of Aboriginal children from their families
- Drug and Alcohol services including rehabilitation services in regional areas
- More services to help families in stress
- There needs to be wholistic work with families
- Better supports including save houses for families impacted by domestic and family violence
- wholistic healing programs.

Gaps in data

Currently in NSW there are several gaps in available data which impact the effectiveness of responses to support children in OOHHC. These include:

- Annual data of cultural support plans for children in out-of-home care.
- Annual data of time in out of home care.
- Annual data of children aged 0–16, reunified with their families that were returned to out-of-home care within 12 months.

(<https://www.aihw.gov.au/getmedia/9d2027a1-267c-4b67-ab94-835f76e9815b/aihw-cws-77-data-tables.xlsx.aspx>)