

INQUIRY INTO CHILD PROTECTION

Organisation: Aboriginal Child, Family and Community Care State Secretariat
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The Director
General Purpose Standing Committee No. 2
Parliament House
Macquarie Street
SYDNEY NSW 2000

1 July 2016

Re: Inquiry into NSW Child Protection

The Aboriginal Child, Family and Community Care State Secretariat (AbSec) is pleased to make a submission to this Inquiry into Child Protection in New South Wales (the Inquiry). Almost twenty years after the landmark *Bringing Them Home* report was released, the rate of Aboriginal children in out-of-home care continues to rise.

Aboriginal families and communities continue to call for greater participation in child protection matters affecting our children, in line with the principle of self-determination that was central to *Bringing Them Home*. Clearly, a new approach to Aboriginal child and family welfare is not only needed, but is long overdue. It is our hope that this Inquiry will provide the impetus for considerable reform of the child protection system, particularly for Aboriginal children, families and communities.

It is AbSec's position, consistent with international evidence, that Aboriginal people are best placed to make decisions for our families and children. We recommend significant reform to empower Aboriginal communities and enhance their participation in the child protection system, from universal community supports through to out-of-home care and leaving care services. There is a need for greater focus and investment on empowering Aboriginal people, through community-controlled organisations, to design, develop and deliver the strategies to give Aboriginal children and young people the brightest possible start to life.

Should you wish to discuss this further please contact me on (02) 9559 5299 or email tim.ireland@absec.org.au.

Yours sincerely,

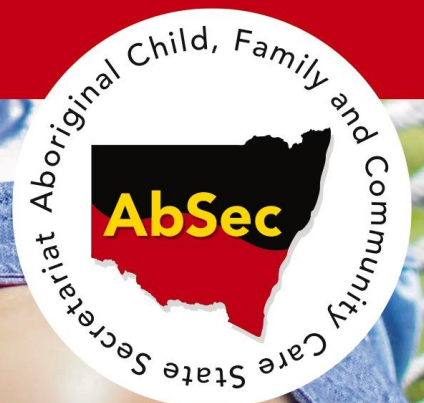
Tim Ireland
Chief Executive Officer

Encl



NSW Child Protection Inquiry

July 2016



Aboriginal Child, Family and Community Care State Secretariat (AbSec)

About AbSec

The Aboriginal Child, Family and Community Care State Secretariat (AbSec) is the peak Aboriginal organisation within the child and family sector in NSW. AbSec is committed to advocating on behalf of Aboriginal children, families, carers and communities, and to ensure they have access to the services and supports they need to keep Aboriginal children safe and provide them the best possible opportunities to fulfil their potential through Aboriginal community controlled organisations.

Central to this commitment is the need to develop a tailored approach to Aboriginal child and family supports delivering universal, targeted and tertiary services within communities that cover the entire continuum of care and reflect the broader familial and community context of clients. Such services and supports would operate to mitigate risk factors or vulnerabilities thereby reducing the need for more intensive or invasive interventions, as well as ensuring that tailored and critical Aboriginal out-of-home care and after care services are provided to intervene in the cycle of disadvantage that continue to impact generations of Aboriginal families.

Our vision is that Aboriginal children and young people are looked after in safe, thriving Aboriginal families and communities, and are raised strong in spirit and identity, with every opportunity for lifelong wellbeing and connection to culture surrounded by holistic supports.

In working towards this vision, we are guided by these principles:

- acknowledging and respecting the diversity and knowledge of Aboriginal communities;
- acting with professionalism and integrity in striving for quality, culturally responsive services and supports for Aboriginal families;
- underpinning the rights of Aboriginal people to develop our own processes and systems for our communities, particularly in meeting the needs of our children and families;
- being holistic, integrated and solutions-focused through Aboriginal control in delivering for Aboriginal children, families and communities; and
- committing to a future that empowers Aboriginal families and communities, representing our communities, and the agencies there to serve them, with transparency and drive

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AbSec acknowledges the traditional owners of this land, and pay our respects to Elders past and present.

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Introduction

Despite a series of reforms since the *Bringing Them Home* report was released in 1997, Aboriginal and Torres Strait Islander children and young people continue to be over-represented in the child protection system. In 2014-15, Aboriginal and Torres Strait Islander children were seven times as likely as non-Indigenous children to be receiving child protection services in NSW, and ten times as likely to be in out-of-home care¹. The rate of Aboriginal children and young people in out-of-home care has increased significantly in NSW from 26 Indigenous children per 1,000 in 1993² to 67.4 per 1,000 by 2014-15 (AIHW, 2016). . To put that in real terms, the number of Aboriginal children in out-of-home care in NSW has increased from 829 as reported in *Bringing Them Home* (1993 data), to 6210 in 2015, an increase of approximately 649%, while over the same period the number of all children in care in NSW has risen by 258%, from 4694 to 16843 in 2015³⁴.

Further, Aboriginal children who were the subject of a substantiation tended to come from those areas of the lowest socioeconomic status (49%), compared with 33% for their non-Aboriginal peers⁵, suggesting that vulnerability for Aboriginal children is closely related to the socioeconomic marginalisation of Aboriginal families and communities. Aboriginal people, collectively, are more likely to have poorer outcomes (including health, educational, socio-economic, wellbeing) and are over-represented across a number of service systems (including justice, health, disability and child protection), arising from the legacy of past forced separations⁶.

In this context, it is clear that innovative reform of Aboriginal child and family services is needed to address this unacceptable over-representation of Aboriginal children and young people in out-of-home care, supporting families and communities to keep vulnerable children safe and connected to their families, communities and culture or governments run the risk of continuing to cause another lost generation of Aboriginal children.

A Principled Approach to Aboriginal Child Welfare

Leading early childhood experts have challenged those within the child and family sector to “create a truly innovative, fully hybridized model that is explicitly focused on transforming the lives of both children and adults”⁷. AbSec is committed to developing such a model with and on behalf of Aboriginal communities and community controlled organisations in NSW, guided by three foundation principles.

Firstly, that child development occurs within the context of their social and physical environment, with relationships playing a key role in optimal development and adaptive outcomes⁸. That is, effective systems approaches to improving outcomes for vulnerable children must include supporting positive change for the child’s social network, their parents, extended families and

¹ Australian Institute of Health and Welfare (2016) Child Protection Australia 2014/15

² *Bringing Them Home* report 1997

³ Ibid

⁴ Australian Institute of Health and Welfare (2016) Child Protection Australia 2014/15

⁵ Ibid

⁶ De Maio JA, Zubrick SR, Silburn SR, Lawrence DM, Mitrou FG, Dalby RB, Blair EM, Griffin J, Milroy H, Cox A. (2005) The Western Australian Aboriginal Child Health Survey: Measuring the Social and Emotional Wellbeing of Aboriginal Children and Intergenerational Effects of Forced Separation. Perth: Curtin University of Technology and Telethon Institute for Child Health Research

⁷ Shonkoff, J. and Fisher, P. (2013) Rethinking evidence-based practice and two-generation programs to create the future of early childhood policy, *Development and Psychopathology*, pp. 1635–1653

⁸ Ibid.

communities. However, rather than simply coordinating separate child- and adult-focused programs, a genuine integration of services that support children both directly and indirectly through strengthening the capabilities, stability (including economic) and resilience of families and communities is required. In this way, interventions can become genuinely intergenerational, supporting parents, grandparents, aunts and uncles to positively contribute to the development of their children, thereby optimising the developmental context and trajectory of the next and subsequent generations of Aboriginal children and young people while maintaining access and connection to their rich cultural heritage and values.

Secondly, that Aboriginal families and communities are stronger and better able to meet the needs of their children and young people when empowered to identify and address the issues that impact on their lives^{9,10}. Aboriginal communities themselves are best placed to develop and deliver services aimed at supporting Aboriginal children and families. This is consistent with the rights of Aboriginal peoples, and the lessons learned from the *Special Inquiry into the Separation of Aboriginal Children from their Families*¹¹, as reflected in the NSW Government's response at that time¹². Finally, international research has emphasised that "when [Indigenous peoples] make their own decisions about what development approaches to take, they **consistently out-perform external decision makers** on matters as diverse as governmental form, natural resource management, economic development, health care, and social service provision"(emphasis added).¹³

Thirdly, that culture represents a significant positive factor in overcoming adversity and disadvantage for individuals, families and communities, strengthening our families and communities to raise strong, connected children¹⁴. Empowering communities to develop and deliver culturally sound universal and targeted interventions will contribute to the development of a comprehensive, state-wide safety-net of Aboriginal community controlled organisations that are embedded within the communities they serve, leading a community-wide response that will support Aboriginal families to keep children safe and connected to their families, communities, culture and Country.

Aboriginal communities and culture has too often acted as an addendum to the broad imposition of a non-Aboriginal framework, with the end result being the ongoing marginalisation of Aboriginal voices and perspectives when greater empowerment is needed. While attempts to address these concerns have sought to increase the representation of Aboriginal practitioners working within their communities, this unwillingness to indigenize the non-Aboriginal frameworks on which these systems operate continues to undermine more positive outcomes for Aboriginal children and families. As such, AbSec seeks to challenge this view, prioritising our cultural and community perspectives as the lens through which meaningful decisions about the safety, welfare and wellbeing

⁹ The Harvard Project on American Indian Economic Development, led by Professors Stephen Cornell and Joseph P. Kalt. Information available at: <http://hpaied.org/about>

¹⁰ Chandler, M. (2015) Cultural Wounds Require Cultural Medicines: How Cultural Continuity Reduces Suicide Youth Risk in Indigenous Communities, keynote address at Secretariat of National Aboriginal and Islander Child Care Conference 2015, Perth, WA.

¹¹ Human Rights and Equal Opportunity Commission (1997) Bringing Them Home – Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, available at: <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/bringing-them-home-stolen>

¹² NSW Government (2012) NSW Government Response – Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, available at: <http://www.aboriginalaffairs.nsw.gov.au/wp-content/uploads/2012/11/NSW-Response.pdf>

¹³ The Harvard Project on American Indian Economic Development, led by Professors Stephen Cornell and Joseph P. Kalt. Information available at: <http://hpaied.org/about>

¹⁴ National Scientific Council on the Developing Child (2015) *Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper 13*. <http://www.developingchild.harvard.edu>

must be made. This view demands much greater involvement of Aboriginal peoples, collectively, across all levels of the system, including differentiated and Aboriginal-led policy, community-validated safety and risk assessment tools, Aboriginal-led service delivery through community controlled organisations across the continuum of care, and greater oversight by and accountability to Aboriginal communities for the function and role played by child protection authorities as it relates to Aboriginal children and families.

Response to Inquiry Terms

This submission aims to explore each of the Inquiry's terms of reference in turn, outlining AbSec's position with respect to the child protection system and the experience of Aboriginal children and families, and the Aboriginal agencies that are established to support them. In doing so, we outline key concerns and note recommendations for reform that we argue will improve the efficacy of child safety and wellbeing for Aboriginal children and families, leading to better outcomes for Aboriginal children and families, including fewer Aboriginal children entering out-of-home care and reducing the length of time Aboriginal children who enter care remain in care.

A. Capacity and effectiveness regarding risk of harm

Receiving, investigating and assessing reports regarding children and young people who may be at risk of harm is the core function of the child protection system, and is the key responsibility of the Department of Family and Community Services (FACS) as the statutory body in NSW. However, it remains a significant concern that, while FACS have increased the number of children notified to the system as being at risk of significant harm (ROSH) who receive a face-to-face assessment by almost 20% from Q4, 2012/13 to Q2, 2015/16, this still represents less than 30% of all such children. That is, 70% of children in NSW who are assessed as being at risk of significant harm do not receive a face-to-face assessment of their current safety and future risk, demonstrating that greater effort and investment is needed to ensure the safety, welfare and wellbeing of vulnerable children in NSW. It is unclear the rate of Aboriginal children and young people that are reported as being at risk of significant harm and who do not receive a face-to-face assessment due to the availability of data.

In our view, this issue raises the significant point regarding the key roles and responsibilities of different stakeholders within the broader Aboriginal child and family sector, in particular government and Aboriginal community-controlled organisations. In our view, the core function and focus for FACS is to deliver on their statutory function, which requires a high degree of specialisation in processes and focus in practices around responding to notifications and reliably assessing safety and risk for children and young people. Given this role, there are increased challenges for FACS in delivering effective early intervention and family support services, or family reunification and restoration roles and at the same maintaining their core function. Further, it is likely that, with respect to Aboriginal children and families, Aboriginal child and family services that are connected to the communities they serve and are culturally informed are more likely to be effective in engaging and supporting sustainable change for children and families.

As discussed above, the need for greater community participation and engagement in the design and delivery of services was a key finding of the *Bringing Them Home* report. As such, it is our view that there is a significant need to develop a state-wide safety-net of holistic Aboriginal services, linked with local community governance structures, to drive the design and implementation of local

Aboriginal child and family services, ranging from universal supports through to intensive family supports, with FACS retaining and focusing on their statutory role of safety and risk assessment, working in partnership with Aboriginal families and communities. This model will be explored more in Section G.

Similarly, where Aboriginal children are assessed as being in need of out-of-home care, case management should likewise be provided by accredited Aboriginal community-controlled agencies, which are best placed to meet the holistic needs of Aboriginal children and young people through a cultural safe lens, including restoration and family reunification work where appropriate. This includes the development of effective referral pathways so that FACS are able to link families at the earliest possible moment with effective services that can deliver a localised response tailored to their social and cultural needs. Our focus recognises that embedding culture enables an Aboriginal child or young person to create their sense of belonging, form their identity and maintain their connection to community for life-long wellbeing and participation.

In saying this, we acknowledge the ongoing work and focus of FACS to improve the proportion of children receiving face-to-face assessments, and their transparency over recent years in publicly reporting on these figures. This transparency is critical to the accountability of the child protection system. From the perspective of the Aboriginal sector, it would be helpful if similar data relating to the notification and assessment of Aboriginal children and young people could be reported or shared with Aboriginal communities and community-controlled organisations to enable local and systemic change to address issues of disadvantage for Aboriginal families. If we are genuine about empowering Aboriginal communities to participate in decision making within the child protection sector *with as much self-determination as possible*, then it is critical that communities have access to local data so that they are in a strong position to make informed decisions about the services and supports they need to keep vulnerable children safe. The sharing of data to empower local Aboriginal communities and provide accountability to community of systems designed to promote the safety, welfare and wellbeing of Aboriginal children is a key issue for the Aboriginal sector, and is a central element to AbSec's proposed systemic reforms.

Finally, the effectiveness of these systems relies on their ability to engage with families and communities, gathering quality information about the safety of children and young people and their future risk. The tools that are utilised in assessing safety and risk will be discussed in the following section, however, underlying the efficacy of these tools are the skills of practitioners in building trusting relationships with families and communities, and that these tools are established based on Aboriginal community norms and expectations for child safety, welfare and wellbeing. Unfortunately, there remains significant distrust of FACS across our communities, which undermines these relationships both with individual families and across the wider Aboriginal community. We continue to hear from families who seek support for challenges they face, only to have their children permanently removed from their care, or who seek to engage with FACS and address the risk concerns, only to have the goalposts move or have further unreasonable expectations placed on their compliance. A more participatory approach, that engages with local communities and their families, and links families with Aboriginal child and family services that are able to help them navigate the systems, understand the concerns raised and work collaboratively to address them (including effective safety planning for relapse) will contribute to achieving real change for families that improves the safety, welfare and wellbeing of at risk children.

Promoting stronger relationships between FACS and the Aboriginal communities they serve requires a multifaceted approach. First, there is a need to support Aboriginal communities to develop Local Aboriginal Community Child Safety Governance Groups, promoting greater accountability and empowering the local community to design, develop and deliver local Aboriginal-led solutions. There are great examples of genuine engagement with local Aboriginal leadership at the local level contributing to new approaches with significantly improved outcomes, such as a recent project between the Redfern Aboriginal community and Redfern Police Local Area Command that saw a reduction in street crime. By investing in these relationships, and demonstrating a willingness to listen, new innovative approaches will emerge. In addition to localised solutions, this network of local structures, represented by AbSec, will contribute to the state-wide development of policy, practice and legislative reform needed to continue to refine and improve the system, responding to existing and emerging challenges and sharing new evidence arising from these local innovations.

Second, there is a need to reform existing processes of consultation within FACS, with a greater focus on community consultation and engagement, utilising frameworks functionally independent of FACS. This is critical to ensuring that there is representation from the Aboriginal community it is intended to serve, and ensures that Aboriginal people are able to advocate freely and fully on behalf of their children, families and communities. Such frameworks should also include accountability mechanisms that show consultation and engagement panels, and by extension the community (through de-identified aggregate measures) the results of Aboriginal consultations. This will ensure that practice not only offers an opportunity for Aboriginal voices to speak, but are also heard and meaningfully integrated into casework directions.

Third, there is a need to improve the cultural understanding of practitioners, including the importance of culture to the lifelong wellbeing of children and young people, and the important role of Aboriginal self-determination in effective service delivery. At its heart, this understanding must reflect the notion that a truly culturally competent service for Aboriginal children is one that prioritises the voices of Aboriginal families and communities and empowers them to drive the solutions. This includes the participation of Aboriginal people and communities in the development of practice standards and tools that practitioners use to guide their work, creating a genuine Aboriginal framework, led by Aboriginal people, to guide practice in this space (the need to develop assessment tools that are reliable and valid within an Aboriginal cultural context will be discussed in the following section). By increasing the participation of Aboriginal families and communities in the child protection system both locally and at the state-wide level, more collaborative approaches to the notification, investigation and assessment of risk with respect to Aboriginal children and young people can be developed, as well as more responsive local strategies to address this risk and achieve better outcomes for Aboriginal children, families and communities.

In summary:

- Current system does not have the capacity to adequately investigate and assess reports of children at risk of harm. As such, AbSec suggests a broad restructuring and defining of roles and responsibilities, with FACS specialising and intensely focusing on their statutory responsibility to investigate and assess reports of risk of significant harm, while investing in, and developing effective referral pathways to adequately resourced Aboriginal community-

controlled services to deliver localised community and family strengthening as well as out-of-home care services.

- There is a need to provide Aboriginal communities with high resolution data regarding notifications and assessment outcomes to inform and empower them to develop local responses
- Need to develop more participatory approaches to improve system efficacy with respect to Aboriginal children and families. This includes the development of Local Aboriginal Community Child Safety Governance Groups, the reform of current FACS Aboriginal consultation processes to be community-based, and creating a genuine Aboriginal practice framework and assessment tools to guide casework practice.

B. Adequacy and reliability of safety and risk tools

As noted in Section A above, reliable safety and risk assessment practice is critical to an effective child protection system that is able to deliver the right responses to the right children and families at the right time. Good safety and risk assessment work also identifies the steps needed to address the risks and build on family strengths to achieve safety for children and young people within their family networks, and is therefore critical to achieving better outcomes for children and young people.

AbSec acknowledges that safety and risk assessment is a complex process that attempts to provide some predictability in the context of significant uncertainty. While tools assist practitioners in making some sense of this complexity, their reliability and validity is reliant on practitioners' access to accurate information regarding the family, the child's lived experience (particularly the quality of relationships with caring adults that is critical to child wellbeing in the face of adversity) and the presence of risk and safety factors, as well as their ability to properly understand and assess the information presented. Typically, safety and risk assessment processes are derived from a westernised view of the world, and do not account for the perspective and expectations of child safety, welfare and wellbeing within Aboriginal communities.

There remains significant concern within the community about the reliability and validity of safety and risk assessments completed through a framework that was not informed by or validated with respect to Aboriginal families and communities. Assessment tools developed outside of the Aboriginal context are unlikely to demonstrate adequate reliability and validity with respect to the safety and risk assessment of Aboriginal children and young people, or provide clear strategies for safety planning and addressing risk. Rather, AbSec would recommend the exploration of specially-designed tools for the safety and risk assessment of Aboriginal families, reflecting the expectations of community and validated within that context. This is essential to the development of a child protection system for Aboriginal children and families, increasing community confidence while also informing the development of community-based responses to address perceived risks. AbSec is aware of ongoing research exploring community expectations of parenting and neglect that may represent an important case study on this issue, in particular processes for community engagement on these topics. To be clear, we are not saying that Aboriginal communities wish to lower the threshold that defines risk or keep Aboriginal children in unsafe situations. Rather, we seek the

development of robust tools validated within the context of the Aboriginal communities they are intended to serve.

In addition to improving and validating the safety and risk assessment tools for Aboriginal communities, the reliability of these assessments is dependent on access to accurate and thorough information about children and families. Access to high quality information is itself dependent on the relationship between FACS and the local communities they serve, the skills of practitioners in building trusting relationships as well as the investment of time to develop these connections. As noted above, relationships between FACS and Aboriginal families and communities are often strained, and greater investment in building local relationships and developing frameworks for Aboriginal families and communities to participate in decision making about their children is needed to improve the application of these tools and, more importantly, decision making about Aboriginal children and families. Participatory approaches such as AbSec's Connecting Voices (Aboriginal Family-led decision making) and Protecting Aboriginal Children Together (PACT) represent two such strategies to improve practice through the participation and empowerment of Aboriginal families and communities, and the principles that these models operate by should continue to be developed and embedded throughout NSW to improve outcomes for Aboriginal children and young people.

Finally, there is limited access to clear data about the application of safety and risk assessment tools and their reliability. Given the over-representation of Aboriginal children in out-of-home care, this issue is of particular concern to the Aboriginal community, and lies at the heart of efforts to address this over-representation into the future. In general, neglect continues to be the highest substantiated type of abuse reported for Aboriginal children in NSW¹⁵. Further, there continues to be community concern that this assessment reflects judgements based on social economic disadvantage, with social workers applying middle class expectations on families living in poverty. In line with this view, almost half of Aboriginal children at substantiated risk of harm were from the lowest socioeconomic areas, compared to only one third for non-Indigenous children¹⁶.

More in-depth analyses suggest that the main reasons for Aboriginal children entering care include parental substance abuse, exposure to family violence and parental mental health issues. It is likely that similar issues impact on Aboriginal families and communities in NSW and contribute to the over-representation of Aboriginal children in OOH, however the absence of robust, high resolution data and strong participatory frameworks undermines the confidence of Aboriginal families and communities in safety and risk assessments regarding Aboriginal children, as well as the ability of Aboriginal communities and the broader system to make informed, evidence-informed decisions about the needs of Aboriginal families. Such evidence would help not only to improve the reliability of safety and risk assessment tools, but, coupled with comprehensive participatory frameworks, also contribute to the development of more effective responses to local challenges that place children at risk. By working with Aboriginal communities, and empowering them with accurate localised data, a more responsive Aboriginal community controlled service system can emerge that is tailored to the dynamic needs of local Aboriginal children, families and communities.

In summary:

¹⁵ AIHW (2016) Child Protection Australia 2014/15

¹⁶ Ibid.

- There is a need to develop and validate safety and risk assessment tools with Aboriginal families and communities to promote their reliability and validity in the community and cultural context to which they will be applied.
- Greater investment in Aboriginal participatory approaches such as Aboriginal family-led decision making and Protecting Aboriginal Children Together to improve validity of safety and risk assessment as well as informing localised strategies to support families and keep children safe.
- Need for the sharing of more robust, detailed data regarding the safety and risk issues facing Aboriginal children and young people with Aboriginal communities and their organisations, empowering communities to develop and deliver more effective responses.

C. Resourcing for the Department of Family and Community Services

As noted above, FACS has an important statutory role to play within the child protection system, particularly receiving and responding to allegations of risk of significant harm in an effective and timely manner. It is critical that FACS is adequately funded and focused to deliver this essential function, and to develop the specialised services and systems that support frontline practitioners to deliver the highest quality assessments possible. Given its importance, it is our view that FACS should focus on this role, providing stewardship as a responsible government department for the early intervention and out-of-home care segments of the system but no direct service provision role. Such an approach will allow FACS to focus on the core task of safety and risk assessment, while providing public oversight and accountability for investment in other aspects of the service continuum through high level person centric outcomes frameworks.

For Aboriginal children and families, early intervention, family support, restoration and family reunification and out-of-home care services should be delivered by Aboriginal community organisations (funding discussed below). Overall, there is a need to focus more on early intervention and family support approaches that seek to divert children and families from more intensive interventions such as child removal and out-of-home care; however the quality of services to those already within the system cannot be allowed to drop in order to shift this prioritisation. Rather, a surge in funding is required in the short to medium term to boost the system's capacity to intervene as early as possible and prevent entries into care, providing appropriate assessment of risk and prompt referral to effective services to build supports into the family network to keep children safe while providing a longer-term safety net for families. This should be seen as an investment in future savings arising from a reduction in the rate of entries to higher costing care over time.

In summary:

- FACS to focus on, and be adequately resourced for, the development of specialised services and systems to support frontline child protection practitioners to investigate and assess reports of children and young people at significant risk of harm. This specialisation means that FACS will not have a direct service delivery role within the community and family

strengthening or out-of-home care segments of the system, rather providing stewardship of these segments through monitoring and oversight roles. For Aboriginal children and families, these early intervention and out-of-home care services should be delivered by Aboriginal community-controlled organisations with direct accountability to the communities they serve if they are enabled to be as effective as possible.

- This restructuring and defining of roles should be achieved through a surge in funding to early intervention services, aimed at reducing down-stream expenses through diverting families from crisis responses. These savings could be re-invested back into the system to improve coverage and capacity.

D. Resourcing the non-government sector

There is a clear and immediate need to increase the funding of the Aboriginal child and family sector to deliver holistic, tailored Aboriginal child and family supports across the service continuum. This need is driven by the over-representation of Aboriginal children across child protection, with equitable outcomes for Aboriginal children and families requiring at least equitable investment in targeted Aboriginal services - if there is a genuine desire to address the over-representation of Aboriginal children in out-of-home care, there must be commensurate investment in Aboriginal community responses. At present, approximately one-third of families involved in child protection services are Aboriginal, and as such, AbSec calls for one-third of the funding across the sector to be targeted to Aboriginal children and families through Aboriginal community-controlled services. AbSec welcomes recent announcements by the Minister for Family and Community Services regarding an increased investment in early intervention and family support services, with half of all new investment designated to Aboriginal families. Such measures are critical to achieving the goal of equitable funding of Aboriginal child and family services, and must be delivered through Aboriginal community-controlled organisations that are directly accountable to the communities they serve if they are to be as effective as possible.

AbSec's vision for the future of the child protection system, captured within the *Plan on a Page for Aboriginal children and young people*¹⁷, as it relates to Aboriginal families includes the development of a state-wide holistic Aboriginal child and family system supporting local Aboriginal child safety governance groups, supported by AbSec, delivering integrated and tailored supports across the service continuum. As such, there is an identified need for greater investment in the capacity of Aboriginal organisations across the state to provide a state-wide safety net of holistic services, such that all Aboriginal children and their families have access to culturally-embedded services regardless of their location. This includes the strategic and planned growth of accredited Aboriginal community-controlled out-of-home care agencies, focused on achieving our joint commitment to all Aboriginal children in out-of-home care under the case-management of Aboriginal community-controlled agencies. While there has been significant growth of the Aboriginal sector in the last 5 years, continued focus is needed to meet existing demand, as well as adjusting to future growth that allows Aboriginal children requiring care to be case managed by a local Aboriginal agency, remaining within

¹⁷ Access via www.absec.org.au

the community and on Country, and at the same time makes effort towards reducing the need for care within the communities that each agency serves.

It is our view that the role of FACS is to provide stewardship of the child and family sector in NSW, developing the policy and funding environment that enables the development of a strong, effective Aboriginal child and family sector. The basis of Aboriginal community-controlled organisations designing, developing and delivering local solutions is that such organisations best understand their families and communities and are able to drive tailored solutions that are culturally embedded and are able to capitalise on both formal and informal networks and supports. That is, an approach that empowers Aboriginal communities within the child and family sector will, in the long term, be the most efficient and effective means of driving better outcomes for Aboriginal children and families and thereby reduce the rate of Aboriginal children in out-of-home care.

In taking this stewardship role, it is critical that FACS provide the flexibility and freedom that communities need to develop innovative approaches. At present, many Aboriginal organisations in this sector note the barriers presented by programmatic funding streams that attempt to shoehorn families into existing structures rather than shaping those structures to the individual needs of children and families. Rather, it is our view that a mixed funding model that combines base funding (particularly for known costs such as out-of-home care) with outcomes focused funding targeted at agreed high level goals provides communities with the flexibility to drive genuine community responses and innovation.

The Aboriginal child and family sector is committed to developing robust monitoring and continuous improvement frameworks that will allow communities to evaluate their approach and invest in local strategies that are making a difference for children and families in their communities, while capitalising on the joint learnings that such a network offers. Building on this, a reinvestment approach that allows communities to capitalise on savings to continue to develop localised supports will further promote local innovation, delivering better outcomes and long term efficiencies. As steward, FACS would work alongside the Aboriginal sector peak, driving system-wide accountability and oversight of high-level outcomes and be geared towards enabling local innovation rather than hindering such approaches.

In summary:

- Needs-based funding, including targeted funding for Aboriginal children and families through Aboriginal community-controlled organisations is needed to address the over-representation of Aboriginal children and families across the child protection system. Funding provided to communities should be commensurate with service usage, such that at present approximately 36% of funding should be targeted to providing tailored services to Aboriginal children and families across the service continuum.
- There is a need for ongoing investment in capacity building of the Aboriginal sector to develop a state-wide safety-net of holistic Aboriginal child and family services, focusing on areas of current Aboriginal community controlled service gaps.

- It is important that funding of the Aboriginal sector is needs-based and outcomes-focused, providing service flexibility to Aboriginal communities and services, thereby allowing innovative approaches that are tailored to local need. A re-investment approach would further accelerate positive outcomes, allowing communities to use savings achieved to further improve the scope and efficacy of local services focused on community empowerment, family strengthening and child needs.

E. Foster and Relative/Kin carers

There is a growing need for additional support for kinship and foster carers who open their homes and their hearts, supporting and nurturing children with traumatic early life experiences, including being removed from their parents. At all three of the Ministerial forums, hosted by the Minister for Family and Community Services, those who care for children and young people consistently called for greater specialised supports to assist them in providing the highest quality, nurturing and safe caring environment to this group, including mental health services, behavioural supports, educational supports and family and cultural connections. A positive, collaborative relationship between out-of-home care services and practitioners, caregivers, and other adults (such as child-care workers, extended family, teachers, youth workers etc.) is necessary to achieve the best outcomes possible for children and young people in out-of-home. This includes providing ongoing training tailored to the specific needs of carer households, including information about the impacts and effects of trauma, or caring for children and young people with mental health or disabilities.

Additionally, there is a need for supports to assist carers to maintain meaningful cultural connections for Aboriginal children and young people. Cultural supports are required by the *Children and Young Persons (Care and Protection) Act 1998*, reflecting the child's right to their culture, with particular focus within the Convention on the rights of Indigenous children to their culture and language. However there are no current supports for out-of-home care providers to deliver on these important needs, with the result being few Aboriginal children enjoying their cultural rights through strong and well-implemented cultural support plans or actions. For example, the CREATE Foundation reported that, nationally, fewer than 10% of Aboriginal respondents in out-of-home care reported being aware of a cultural care plan, with less than 1 in 3 reporting feeling connected with their culture or community¹⁸. As Andrew Jackomos, Victorian Commissioner for Aboriginal Children and Young People, argues, "A child's cultural rights directly impact on their ability to meaningfully enjoy every other human right and freedom¹⁹." Clearly, more work is required to protect and promote the cultural rights of Aboriginal children and young people in out-of-home care, which can be achieved through targeted supports delivered through relevant local Aboriginal community-controlled organisations, and clear oversight of the quality and implementation of cultural support plans for Aboriginal children and young people.

The Aboriginal Sector is also focused on issues of identification and assessment of appropriate placements for Aboriginal children and young people. Although NSW reports surprisingly high compliance with the Aboriginal Child Placement Principles, with almost 80% of Aboriginal children

¹⁸ McDowall, J. J., (2013) *Experiencing out-of-home care in Australia: The views of children and young people (CREATE Report Card 2013)*. Sydney: CREATE Foundation.

¹⁹ Jackomos, A. (2016) Speech delivered at Old Parliament House, Canberra, 10 February 2016

being placed with relatives/kin or other Aboriginal carers²⁰, there remains significant community concern about the application of this important principle in NSW. First, this focus on compliance reduces the Aboriginal Child Placement Principles to a simple hierarchy, marginalising other important aspects of the Principles that seek to empower Aboriginal families and communities to participate more fully in decision making about Aboriginal children and young people²¹.

Second, despite this high rate of compliance, there appears to be a trend emerging over the last decade that sees more Aboriginal children placed with non-Aboriginal carers. AbSec and the Aboriginal sector continue to call for stronger frameworks for the full implementation of the Aboriginal Child Placement Principles, including the participation of Aboriginal families and communities in the decision making about Aboriginal children, and greater oversight and monitoring of the implementation of the Aboriginal Child Placement Principles by Aboriginal people.

In this light, we welcome the recent recommendation of the report of the inquiry into Reparations for the Stolen Generations in New South Wales for an independent audit of adherence to the Aboriginal Child Placement Principles. This greater participation should extend to the early identification and assessment, through culturally appropriate frameworks, of Aboriginal family and kin in order to minimise disruption and disconnection of Aboriginal children should they need to enter care. The involvement of Aboriginal families and communities in this decision making will further support the application of a culturally appropriate view of extended family and kin, which may differ from and extend beyond mainstream conceptualisations of family, but nevertheless reflect meaningful, supportive relationships that may be beneficial for Aboriginal children and young people.

We know that children and young people in out-of-home care are among the most vulnerable, both in terms of their lifelong outcomes and their risk of future abuse. As such, the ongoing monitoring and oversight of children and young people in out-of-home care is essential to both keep them safe and ensure accountability of the system for outcomes achieved. In our view, intervening in a child's life to deprive them of their family carries with it the significant obligation to provide a positive future, which requires the ongoing monitoring of their safety, welfare and wellbeing and lifelong outcomes. This responsibility extends to all children and young persons in OOHC regardless of the type of order they are on (guardianship/adoption etc.), and is critical not only to achieving the best outcomes for individual children and young people, but also in continuing to develop refine and improve the systems and decisions that so greatly affect their lives.

The ongoing support and oversight of carers is a fundamental responsibility of the child protection system, including the implementation of cultural support plans and supporting the maintenance of family and community connections while in care. In AbSec's view, ongoing support and oversight of children in out-of-home care is noticeably absent from permanent care orders that are currently a focus for children and young people in out-of-home care, such as adoption and guardianship. Further, AbSec notes that many of our communities continue to oppose permanent care orders within the child protection system that may see Aboriginal children forcibly removed from and legally denied important connections to their family, community and culture that are their fundamental rights. For these reasons, AbSec continues to oppose guardianship and adoption

²⁰ Australian Institute of Health and Welfare (2016) Child Protection Australia 2014/15

²¹ Arney, F., Iannos, M., Chong, A., McDougall, S., and Parkinson, S. (2015) Enhancing the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle: Policy and practice considerations, *Child Family Community Australia* No. 34.

orders, as they are currently conceptualised within the *Children and Young Persons (Care and Protection) Act 1998*, for Aboriginal children and young people²². Rather, AbSec proposes the further development of Aboriginal-led placement decision-making, including an Aboriginal framework based on a complete understanding of the principle of best interest that seeks to ensure that all Aboriginal children in out-of-home care are supported to enjoy all of their rights within the context of stable and enduring positive relationships.

In summary:

- Significantly greater investment in carer support is needed to drive better outcomes for children and young people in out-of-home care, including mental health, behavioural and educational supports, as well as providing monitoring and oversight of the safety, welfare and wellbeing of children in out-of-home care. It is our view that this remains a fundamental responsibility of the sector where children are removed from their parents through the *Children and Young Persons (Care and Protection) Act 1998*, as reflected in Article 25 of the Convention of the Rights of the Child.
- In particular, there is a clear need for greater cultural support for Aboriginal children and young people, ensuring the development and implementation of high quality cultural support plans and activities, with robust support provided to carers in providing this. These plans should be developed in consultation with, and overseen by, Aboriginal families and communities.
- AbSec continues to oppose permanent care orders such as guardianship and adoption for Aboriginal children and young people in out-of-home care. Rather, AbSec calls for the development of an Aboriginal placement framework, building on the Aboriginal Child Placement Principles, aimed at promoting relationship stability and family, community and cultural connectedness for Aboriginal children and young people in out-of-home care.

F. Oversight and interaction for risk of harm or out-of-home care

The Aboriginal sector is supportive of the existing regulatory regime in NSW, and enjoys a constructive relationship with both the Office of the Children's Guardian and the NSW Ombudsman to improve the quality of services delivered to and safety of Aboriginal children and young people. However, the sector is wary of the risk of over-regulation and duplication that stifles quality practice innovation by requiring services to look inwards rather than reaching out to those they serve and seeking to deliver the best outcomes possible, as efficiently as possible. AbSec does not currently see the need for significant changes to the role or function of the Office of the Children's Guardian or the NSW Ombudsman, although acknowledges that incremental changes and refinements will continue to emerge in an evidenced-informed way, particularly through enhancing safeguarding

²² See AbSec (2015) *Guardianship orders for Aboriginal children and young people*, available at: <http://www.absec.org.au/images/pdf/Submissions/GuardianshipOrdersPositionPaperNovember2015.pdf>

functions for these particular offices. FACS' focus should be enabling the work of these regulatory offices to safeguard and assure quality in service provision for children and young people.

However, at present, contracting between FACS and service providers effectively acts as an additional layer of regulation, imposing rigid programmatic guidelines and increasing the regulatory burden faced by service providers. This additional layer of regulation undermines the efficiency of the sector, as well as stifling innovation. By clarifying the role of FACS as system steward, ensuring public accountability of sector funding at the outcome level, and enabling the regulatory function of the Office of the Children's Guardian and NSW Ombudsman, a more coherent, efficient sector will be achieved.

In our view, a significant missing element in the network of oversight bodies is the absence of Aboriginal oversight mechanisms. The need for greater accountability of child protection systems to the Aboriginal communities they serve, and the outcomes they achieve for these communities, is a consistent issue nationally. In recent years, Victoria has appointed a Commissioner for Aboriginal Children and Young People, to drive better outcomes for Aboriginal children and young people, in particularly reducing their over-representation in the child protection and youth justice systems. Importantly, this role provides a legislative basis for Aboriginal oversight of all systems that affect the lives of Aboriginal children and young people, promoting a whole-of-government approach.

AbSec believes that developing an independent Aboriginal organisation that is able to represent the community, advocate on behalf of children, families and communities and provide key monitoring and oversight of outcomes for vulnerable Aboriginal children and young people is an essential element of an effective Aboriginal child and family system. Such a body would be empowered (possibly through legislation) to review cases, audit practice and monitor outcomes for Aboriginal children and young people such as those in the child protection system, providing transparency and accountability to the Aboriginal community and building community confidence in the child protection system. Other initial priorities might include greater coordination between child protection, education and juvenile justice systems to improve outcomes for children and young people in out-of-home care who may be disengaged from school or involved in the juvenile justice system.

In summary:

- AbSec remains committed to the existing regulatory framework within NSW, and see this as current best practice in Australia. AbSec is committed to working with the Office of the Children's Guardian and the NSW Ombudsman on the continuous improvement of the Aboriginal child and family sector.
- A more coherent regulatory environment could be achieved by clearly defining the role of FACS with respect to existing regulatory bodies. This would reduce the regulatory burden on service provision and deliver a more efficient service system, while retaining adequate safeguards.
- AbSec believes there is a pressing need for greater Aboriginal monitoring and oversight of the child protection system and outcomes achieved for Aboriginal children and families. An

independent Aboriginal organisation empowered to review cases, audit practice, monitor outcomes and advocate on behalf of Aboriginal children, families and communities would play an important role in the improvement of outcomes and the integration of services for Aboriginal children and young people.

G. Aboriginal and Torres Strait Islander children and young people

As outlined above, significant reform is needed to address the over-representation of Aboriginal children and families across the child protection system. AbSec, in partnership with FACS, have developed a five year plan, known as the *Plan on a Page for Aboriginal children and young people*, which outlines the actions needed to commence these reforms, improving outcomes for vulnerable Aboriginal children and families. The Plan calls for greater participation of Aboriginal communities in the design and delivery of child and family services, as well as the development of a state-wide safety-net of Aboriginal community-controlled organisations delivering holistic Aboriginal child and family services that are tailored to the needs of families and communities.

This approach is informed by principles of early childhood development and human rights, namely that:

- investment in the early environment and relationships of children and young people, particularly their families and communities, create an environment in which children can thrive
- Aboriginal families and communities are best placed to develop and deliver the services and supports that Aboriginal children and families need, with approaches that reflect our right to self-determination and seek to empower communities likely to be the most effective at creating genuine and sustainable change for children and families, and
- Culture represents a significant positive factor for Aboriginal children, families and communities, providing a strong foundation for the development of community and targeted family solutions to support vulnerable Aboriginal children and families.

Drawing on these principles, AbSec has begun developing a model for the future of the Aboriginal child and family sector, including the Aboriginal child and family sector's relationship with regulatory bodies, FACS and community stakeholders. FACS and other government agencies partner with AbSec as the Aboriginal sector peak to establish high-level goals and outcomes and drive a 'whole of government' approach, including education, justice and health. As steward of the system, FACS will provide funding to the Aboriginal sector commensurate with identified need and focused on achieving the agreed goals and outcomes and enabling sector capacity and capability development through the Aboriginal peak, while remaining agnostic with respect to the programs developed to achieve these outcomes. The two-way, high level relationship between FACS and the Aboriginal sector peak will facilitate state-wide system development and accountability, taking an evidence-based approach to continuous improvement of the sector.

FACS District and local offices remain engaged in their statutory responsibilities under the Children and Young Persons (Care and Protection) Act 1998, while developing and maintaining a positive relationship with local Aboriginal Community Child Safety Governance structures and Aboriginal community controlled agencies to improve service delivery and collaboration at the local level. This localised approach will seek to promote the full integration of local services and supports, improving safety and reducing the number of Aboriginal children entering care. This local engagement will be based on the *Guiding Principles for Strengthening the Participation of Local Aboriginal Community in Child Protection Decision Making*.

The Aboriginal sector peak (AbSec) will represent and support local Aboriginal Community Child Safety Governance Groups and the state-wide safety net of Aboriginal community-controlled child and family services, providing advocacy, practice support, policy and workforce development to develop and maintain a strong sector. This strong, connected sector will be best placed to share knowledge, experience and innovation to drive continuous improvement of the sector, and be equipped to identify and respond to emerging issues and trends in a timely fashion. Local Aboriginal Community Child Safety Governance bodies will empower local Aboriginal communities to develop local strategies and solutions that reflect the needs of children and families in their social, cultural and community context. These bodies will be supported by the broader network and AbSec as sector peak to deliver a localised, data-driven strategy to support families and keep children safe.

State-wide Aboriginal Service Safety-net will provide holistic, tailored services, informed by the needs of local Aboriginal communities through their Local Aboriginal Community Child Safety Governance group. This approach seeks to capitalise on the 'economies of scale' of large organisations while maintaining the responsiveness of smaller, locally-based services by streamlining "back office" services at the district or state-wide level while prioritising local service delivery and direct community engagement. Key workers based in communities will deliver holistic, client-centred supports, intervening as early as possible to divert families from crisis interventions and providing an ongoing presence to prevent and respond promptly to relapse and family setbacks. Benchmarking across the state, supported by AbSec, will maintain competitive pressure to drive practice quality and innovation without undermining the culture of collaboration, with a shared focus on outcomes for Aboriginal children and families.

Importantly, regulatory bodies including the Office of the Children's Guardian and NSW Ombudsman's Office will continue in their statutory role, and work with the Aboriginal sector to refine and improve child safety and child safe organisations and communities through safeguarding and quality frameworks.

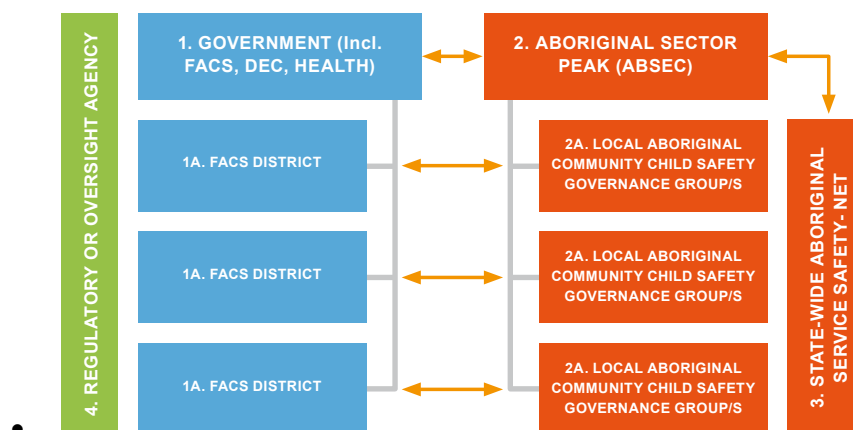


Figure 1: Roles and relationships of service mode

Within this organisational framework, holistic Aboriginal child and family services will be delivered across three intervention levels: Aboriginal community response (Primary), Aboriginal Family Strengthening (Secondary), and Aboriginal Child Safety (Tertiary). This approach seeks to wraparound families and communities, providing the conditions for all children to thrive and ensuring vulnerable families have access to the supports they need, when they need them, with clear referral pathways to more intensive services and step-down supports following periods of intensive intervention. In doing so, this approach is child and family-centred and proactive in approach, seeking to respond early to emerging needs.

In summary:

- Outcomes for Aboriginal children and families are best promoted through an approach that reflects the human rights and developmental needs of Aboriginal children and young people. In particular, an approach grounded in the collective right of Aboriginal people to self-determination, that seeks to improve lifelong outcomes for Aboriginal children by investing in their early social and physical environment, driven by their Aboriginal community, and that appreciates the important positive role that culture plays in the lifelong wellbeing of Aboriginal children and young people, will best promote positive outcomes for Aboriginal children and young people.
- AbSec recommends a broad restructuring of the Aboriginal child and family sector to drive better outcomes for Aboriginal children and families and reduce the over-representation of Aboriginal children across all levels of the child protection system. This renewed system would enhance the participation and self-determination of Aboriginal families and communities, empowering them to design, develop and deliver holistic services tailored to social and cultural context of local Aboriginal families and communities.
- Through a network of community governance and service organisations, this model seeks to drive innovation and practice improvement, developing effective tailored approaches to

support families and communities and diverting vulnerable children from more intensive and expensive crisis interventions.

- FACS service delivery to focus on their statutory role to receive, investigate and assess reports regarding children at risk of significant harm, working closely with Aboriginal families and communities to enhance the reliability of safety and risk assessment. FACS also to act as steward for the broader sector focused at high level outcomes while remaining agnostic to the methods of service delivery, ensuring public accountability for funding while providing communities with the flexibility to innovate.
- The statutory and stewardship role of FACS is complemented by the defined roles of the Office of the Children's Guardian and NSW Ombudsman, promoting child-safe organisations, imposing minimum standards and monitoring the safety of children and young people in out-of-home care.

H. Resources to prevent and reduce risk of harm to children and young people

As stated throughout this submission, significantly greater investment in universal supports through to intensive family services is needed to reform the system and divert children and families before crisis and the need for child protection interventions. As Aboriginal families continue to be grossly over-represented, there is a need for targeted funding to address this and achieve equitable outcomes for Aboriginal children and families, and we acknowledge recently announced initiatives in the NSW 2016 Budget that includes additional funding in early intervention and family supports, as well as targeting half of this funding to Aboriginal families. AbSec hopes that this marks the start of a sustained focus on targeted funding to Aboriginal children and families through Aboriginal community-controlled services to reduce the over-representation of Aboriginal children and families at the crisis end of the system.

Modelling commissioned by AbSec and completed by Deloitte Access Economics suggests that a holistic Aboriginal child and family system could achieve significant savings through decreased utilisation of child protection and out-of-home care services, decreased utilisation of other government services including health and criminal justice systems, and broader productivity gains through improved health, education and justice outcomes. AbSec anticipates that these gains could be further accelerated through a reinvestment approach that seeks to utilise savings achieved through avoiding anticipated crisis responses back into the community and family strengthening levels, achieving further future savings.

As stated above, this recalibration of the child protection system is best achieved through a surge in funding targeted at the community (Primary) and family strengthening (Secondary) levels, empowering communities to build their capacity and capability to respond early with holistic, child and family-centred services. This funding would be informed by existing need (such as distribution of notifications or substantiations of risk), providing communities with the resources they need to address the challenges they face. In particular, it is critical that this funding is provided through location-based outcomes-focused funding envelopes rather than a programme-based strategy, giving local communities the flexibility they need and promoting innovation. This local innovation

will be supported by AbSec as sector peak, evaluating service delivery and benchmarking across the sector to continually refine and improve services.

In summary:

- Significantly greater funding is required to provide universal and targeted early intervention supports. For Aboriginal children, this funding should be needs-based and delivered through Aboriginal communities and their organisations to drive tailored solutions for Aboriginal children and families.
- It is likely that a recalibration to early intervention will drive significant future savings for the system, diverting Aboriginal children and families from more intensive interventions. A reinvestment approach that allows communities to capitalise on these savings to deliver improved early intervention services would likely accelerate these savings and drive improved outcomes for Aboriginal children and families.

1. Any other related matter

In this submission, AbSec has outlined a comprehensive model for the development of the Aboriginal child and family sector, focused on the goal of reducing the over-representation of Aboriginal children and young people across the child protection system. Building on the key recommendations of the landmark *Bringing Them Home* report, this model is based on the fundamental principle of self-determination, and provides a framework through which Aboriginal communities in NSW will be able to exercise their right to self-determination in the operation of the child protection system and, critically, the services and supports delivered to Aboriginal children, families and communities. It is our view that by empowering Aboriginal people to take control of the systems and supports intended to serve their communities, a more effective service system will emerge that will see more vulnerable children and families receive timely, tailored supports that are able to meet their needs and divert them from the more intensive interventions of the child protection system.

As noted above, however, the critical nature of self-determination for Aboriginal peoples in the development of an effective child protection system is not a new or recent idea, and has been well-known within Australia for at least the last 19 years, with the release of *Bringing Them Home*. Further, the *Children and Young Persons (Care and Protection) Act 1998* asserts that “Aboriginal and Torres Strait Islander people are to participate in the care and protection of their children and young persons with as much self-determination as possible”. However, Aboriginal people continue to call for the full exercise of this fundamental right, particularly in the child and family welfare sector. Further, the authors of *Bringing Them Home* noted that, in general, attempts to empower Aboriginal

communities to take charge of these critical issues that are central to the wellbeing of our communities are often undermined through limited resourcing or limited powers to fulfil the functions and responsibilities needed. This is indeed the experience of Aboriginal services in the sector, with rigid, programmatic funding requirements and contracting undermining the ability of Aboriginal organisations to design, develop and deliver the tailored supports their families and communities need, and no mandate of the Aboriginal sector peak to access information, review or audit practice or otherwise provide meaningful oversight of the sector on behalf of the Aboriginal community.

With this in mind, AbSec calls for a clear commitment from the NSW Government to empower the Aboriginal communities of NSW to exercise their right to self-determination in the Aboriginal child and family sector, specifically through a legislative mandate for the development and resourcing of an Aboriginal community-controlled sector. This mandate must properly empower Aboriginal people to provide Aboriginal oversight of the child protection system as it relates to Aboriginal children and families, and be resourced commensurate with the needs of Aboriginal communities in NSW, in order to achieve improved outcomes for Aboriginal children and families. This commitment must recognise that the empowerment of Aboriginal communities to participate fully in the systems and structures that affect our children and families is necessary to address the over-representation of Aboriginal children and young people in out-of-home care, and for achieving the best possible outcomes for Aboriginal children and young people, both as citizens of their Nations, and as citizens of New South Wales.

Related to this view, AbSec further calls for legislative change with respect to the placement of Aboriginal children and young people, protecting the rights of Aboriginal children and young people to remain connected to their families, communities and culture, by excluding them from permanent care orders such as they are currently conceptualised and enacted. Rather, FACS should commit to the development of an Aboriginal placement framework by Aboriginal peoples that seeks to protect the rights of Aboriginal children (including their cultural rights) in the context of stable and enduring relationships, building on a complete understanding of the Aboriginal Child Placement Principles. Developing and implementing an Aboriginal-led placement framework is critical to the meaningful implementation of the principle of self-determination.

In summary:

- There is a need to provide a legislative mandate for the implementation of the principle of self-determination, properly empowering and resourcing an Aboriginal community-

controlled sector and sector peak to deliver the services and supports needed and oversee the operation of the child protection system with respect to Aboriginal children and families

- Legislative reform is required to protect the rights of Aboriginal children that are at risk through the current conceptualisation of permanent care orders, namely guardianship and adoption. Rather, a commitment to the development and implementation of an Aboriginal-led placement framework is needed.

Conclusion

AbSec welcomes the opportunity to provide a submission to this inquiry into the child protection in NSW. Given the alarming and ongoing over-representation of Aboriginal children and families across the child protection system, the subject of this inquiry is of particular interest to our members and communities. Broadly, we call for a refreshed approach to the care and protection of Aboriginal children and young people, based on the principle of self-determination, and recognising that early investment and the implementation of holistic Aboriginal child and family services provides the best opportunity for Aboriginal children and young people to thrive.

This model outlines a clear organisational framework with defined roles and responsibilities that empower Aboriginal communities to take charge of the services and supports designed for and delivered to Aboriginal children and families, while maintaining key issues of sector regulation by the Office of the Children's Guardian and NSW Ombudsman and specialised investigation and assessment of reports of risk of significant harm and public accountability of sector funding through the statutory and stewardship role of FACS. Further, it seeks to improve the local and state-level engagement between FACS and the Aboriginal sector through clear pathways, supporting improved service delivery, the development of more robust tools for the valid assessment of safety and risk for Aboriginal children, and the implementation of Aboriginal-led frameworks to guide and improve practice across the sector, including consultation, placement and carer support frameworks that promote greater participation of Aboriginal families and communities in service design, delivery and decision making.

In general, this approach calls for a realignment of priorities for the child protection system, investing more in early intervention through community supports and family strengthening. However, it is critical that children and young people currently in out-of-home care receive the highest quality supports, including tailored and ongoing support and monitoring of their placement, carer supports and training, and greater restoration and leaving care supports. This vision can be achieved through a surge in current funding to Aboriginal communities and services, and sustained through the reinvestment of savings arising from the reduced proportion of Aboriginal children and young people entering out-of-home care, as well as reducing the length of time that Aboriginal children remain within the child protection system.

Finally, this model proposes a strong role for Aboriginal oversight, through an appropriately resourced and empowered Aboriginal community-controlled organisation that is able to support the development of community capacity and capabilities, promote best practice and innovation and oversee the implementation of evaluation and continuous improvement mechanisms to continue to drive better outcomes for Aboriginal children and families.