CHAPTER 4
RESPONDING TO THE PARTICULAR NEEDS OF ABORIGINAL CHILDREN
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Responding to the particular needs of Aboriginal children

Introduction

The very nature of the Northern Territory is that it features small, multi-lingual and complex communities with basic and limited services that are very remote from our urban service centres.92

It is important to recognise the complexity of delivering services to Aboriginal children and their families in the Northern Territory. Apart from the capital city and a handful of regional centres, the Northern Territory is characterised by a population which is largely scattered across isolated remote communities.

[The Northern Territory] is one of the nation’s most culturally complex settings with more cultural dispersal than in most other jurisdictions93

Given this complexity it is important that the approaches and solutions adopted to address the needs of children and families are flexible and are based on an understanding of local issues. Solutions developed in other jurisdictions will not necessarily transplant successfully in the many different service contexts of the Northern Territory.

This chapter provides a context for determining how the Inquiry proposes to address the specific needs of at risk and vulnerable Aboriginal children and young people in the Northern Territory. Given that more than 75 percent of the cohort of children and young people in the child protection system are Aboriginal their issues are embedded throughout the entire report. Preceding chapters have illustrated that compared with non Aboriginal children, Aboriginal children on a range of indicators be they health, education, disability have poorer outcomes and are more likely to come into contact with the child protection system and are more likely to be taken into care.

The National Framework for Protecting Australia’s Children 2009-2020 identifies as one of the six ‘supporting outcomes’ that ‘Indigenous children are supported and safe in their families and communities’. The following three strategies relate to Indigenous outcomes:

• expand access to Indigenous and mainstream services for families and children
• promote the development of safe and strong Indigenous communities
• ensure that Indigenous children receive culturally appropriate protection services and care.

In order to understand the ethical, moral and social imperatives regarding child protection legislation, policy and practice, this chapter briefly explores the history of child welfare for Aboriginal children in the Northern Territory. It also highlights the relevant recent

92 Submission: NTFCAC.
93 Submission: DET.
inquiries in Australia regarding child protection and their findings as they relate to Aboriginal people.

The Inquiry seeks to provide insight into the assertion that in order to bring about real and sustainable change for the Northern Territory’s most vulnerable, then Aboriginal people must move from being passive recipients, that is, from being consulted in a marginal, and frankly disempowering way, to a position of influence in taking on the responsibility for the safety and wellbeing of their children and young people. To this end, the chapter briefly discusses social determinants of wellbeing for Aboriginal people and how they can be strengthened for children in the Northern Territory through culturally competent legislation, policy and practice.

The Inquiry believes that Aboriginal people’s self determination should be expressed through the establishment of an Aboriginal community controlled agency or agencies delivering services across the continuum of child and family welfare. In this chapter the Inquiry also presents an overview of the Aboriginal Child Placement Principle, and its embodiment in other states and territories. This Principle is taken up in many chapters of this report, highlighting its central importance for the cultural wellbeing of Aboriginal children in out of home care.

As highlighted in the Little Children are Sacred report, it is imperative that government, its agencies, non-government organisations and the wider community commit to and engage with Aboriginal people to promote active participation in improving wellbeing outcomes for vulnerable and at risk Aboriginal children and young people.94 Government agencies must engage more effectively with Aboriginal people, involve Aboriginal people in all aspects of decision-making relating to Aboriginal children and young people, and establish and adequately resource specialised Aboriginal services.

A selective history of colonisation and policy relating to Aboriginal children in the Northern Territory

It is impossible to consider Aboriginal child welfare issues separately from broader narratives of Aboriginal dispossession and disadvantage stemming from European colonisation. Indeed, the Ampe Akelyerneman Meke Mekarle, ‘Little Children are Sacred’ Report 95 identifies disempowerment as a core problem to be addressed if the circumstances facing Aboriginal children in the Territory is to change for the better. While that report focused on the issue of child sexual abuse, many of its observations and recommendations are relevant to all aspects of wellbeing and protection for children and young people.

What is required is a determined, coordinated effort to break the cycle and provide the necessary strength, power and appropriate support and services to local communities, so they can lead themselves out of the malaise: in a word, empowerment!96

94 Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, Ampe Akelyerneman Meke Mekarle “Little Children are Sacred”.
95 ibid.
96 Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse, Ampe Akelyerneman Meke Mekarle “Little Children are Sacred”, p.13.
Given the impact of welfare intervention in the lives of Aboriginal people over the past century and a half, it is not surprising that many Aboriginal people see current child protection systems in Australia as an ongoing process of removal. The Inquiry notes that although the current child protection system applies to all children regardless of cultural background, there is a disproportionate number of Aboriginal children in the child protection system which is, in part, the historical legacy of earlier child welfare systems. This section provides a selective overview of Aboriginal child welfare in the Northern Territory. It is not intended to be a complete historical review, but to provide some information about how the past and present of child welfare and child protection are inexorably linked by a sense of ‘doing to’ or ‘doing for’ Aboriginal people in the Northern Territory.

There is much written on the history of colonisation and of the dispossession of Aboriginal people from their lands. Significant to the Northern Territory is how this history and dispossession impacts on the safety and wellbeing of children today.

Dutch and Portuguese merchants in the 17th Century were the first Europeans to have contact with Aboriginal people in the north of Australia97. Yolŋu people incorporated sightings of ‘Balandas’ (Hollanders) in their stories and art work from around that time98. British explorer Flinders landed on the Northern Territory coast in the early 18023, with the goal of establishing a site for a British outpost close to the Dutch East Indies99. From the 1880’s European pastoralists moved into parts of the Northern Territory seeking grazing lands for sheep and cattle while the colony of New South Wales, despite the absence of a common border, sought sites for military settlement100.

In 1863 the region was annexed as the Northern Territory of South Australia and, by 1885, much of the land was divided into pastoral leases through the Australian Colonies, Waste Lands Act 1842, with land sales to defray the costs of administration for a territory distant from Adelaide. Labour for the pastoral industry, agriculture and mining was imported from Asia, with Aboriginal people thought to have little to offer in terms of trade. Being nomadic and therefore with few goods for trade, there was a prevailing view that Aboriginal people would quickly become extinct which resulted in a lack of attention from the South Australian Government101. If they did not interfere with settlements or businesses they were ignored but if they did interfere, they were treated harshly.

In 1877, the first Aboriginal mission was established at Hermannsburg by a small party of Lutherans102. By the late 1800s, conflict between pastoralists and Aboriginal people had erupted. Aboriginal people were marginalised on their lands, unable to hunt and forced to compete with cattle for water. With their lifestyle threatened many moved onto pastoral stations established on traditional Aboriginal lands or to the fringe of non-Aboriginal settlements and missions. Some Aboriginal people worked for the pastoralists but barely received even subsistence wages.

98 R Trudgen, 2000, Why warriors lie down and die: Towards an understanding of why the Aboriginal people of Arnhem Land face the greatest crisis in health and education since European contact, Aboriginal Resource and Development Services Inc, Darwin.
99 ibid.
100 ibid.
101 ibid.
During this period there were few non-Aboriginal women in the Northern Territory and as relationships between Aboriginal women and non-Aboriginal men began to form, a growing population of children of mixed descent emerged. These children were usually cared for by their mothers in Aboriginal communities but from the 1890s government authorities sought to remove children of mixed descent away from their communities and place them in the care of missions.

In 1910, the first piece of legislation aimed at protecting the interests of Aboriginal people was passed. Under the *Northern Territory Aborigines Act 1910*, the Northern Territory Aboriginals Department was established ‘to provide, where possible, for the custody, maintenance and education of the children of Aboriginals’. Under this Act, the Chief Protector was appointed as the ‘legal guardian of every Aboriginal and every half-caste child up to the age of 18 years’, whether or not the child had parents or other living relatives.

The Chief Protector was also given power to confine ‘any Aboriginal or half-caste’ to a reserve or Aboriginal institution and powers over ‘how they spent their money if they had any’\(^\text{103}\). Severe penalties were imposed for supplying alcohol or drugs to Aboriginal people. The situation continued to change, as in that same year the Commonwealth took control of the territory and enacted the *Northern Territory Aboriginals Ordinance 1911* which increased the powers of the Chief Protector to assume ‘the care, custody or control of any Aboriginal or half caste if in his opinion it is necessary or desirable in the interests of the Aboriginal or half caste for him to do so’. These powers were retained until 1957.

A submission to the ‘Bringing Them Home’ Report quotes the Chief Protector, 1912, Professor Walter Baldwin Spencer:

> No half-caste children should be allowed to remain in any native camp, but they should all be withdrawn and placed on stations. So far as practicable, this plan is now being adopted. In some cases, when the child is very young, it must of necessity be accompanied by its mother, but in other cases, even though it may seem cruel to separate the mother and child, it is better to do so, when the mother is living, as is usually the case, in a native camp\(^\text{104}\).

Spencer was a strong advocate for the establishment of compounds to contain all Aboriginal people and the separation of mixed descent Aboriginal people from Aboriginal people of full descent. The Commonwealth developed Children’s institutions, including the Kahlin Compound which was established in Darwin in 1913, and the Bungalow in Stuart (now Alice Springs) the following year\(^\text{105}\). Subsequently, similar compounds were established at Pine Creek and Jay Creek.

Under the *Aborigines Ordinance 1918*, all Aboriginal females were deemed to be under the control of the Chief Protector until they had received permission to marry a non-Aboriginal man. Aboriginal women had no right of guardianship over their own children. On the other hand, Aboriginal men could be released from guardianship at the age of 18 years.

Overcrowding and poor health were constants in the lives of those who lived on the compounds, many of whom graduated to domestic or labouring positions. In 1929 the

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105 Kruger & Waterford, *Alone on the soaks*. 

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Bleakley Inquiry into Kahlin found that living conditions there were appalling, with Alec Kruger writing in his biography that he was one of 77 people in a home initially built for only one family106. Bleakley proposed that children be sent to different mission institutions according to their proportion of ‘European blood’ and be provided with education and better living conditions. Chief Protector at the time, Dr Cecil Cook, opposed the use of missions as suggested by Bleakley and due to constraints of the depression, living conditions continued to deteriorate. Coupled to this was the introduction of rules to discourage traditional cultural practices and, in most missions, Aboriginal laws and customs were forbidden and children were generally separated from the rest of the Aboriginal community. Resources for these missions were scarce and disease was common.

Growing concerns about the missions and the increasing population of mixed descent Aboriginal people led the Minister of the Interior, John McEwen, to introduce assimilation policies in 1939. Assimilation policies were intended to replace the earlier ‘absorption’ policies and ‘raise up’ mixed descent Aboriginal people to the ‘white standard’. Aboriginal people of mixed descent were sent to different institutions according to their portion of ‘Aboriginal blood’. It was as a consequence of this policy that the Bagot Aboriginal reserve was constructed in Darwin.

The Second World War interrupted McEwen’s plans following the bombing of Darwin, forcing the evacuation of missions. Aboriginal children were then dispersed to a variety of settings in other parts of Australia. Some returned to the Northern Territory after the War but others went missing and some remained where they had been sent. In the Northern Territory, the policy of the forced removal of mixed descent children from Aboriginal families continued. The following decade saw the emergence of the Aborigines Advancement League and other groups protesting against policies of removal. Following the war, the Retta Dixon Home opened in Bagot, Darwin. Retta Dixon was operated by the Aborigines Inland Mission until its closure in 1980. At its peak, the Home housed 120 removed children – children separated from their mothers once they ceased breast feeding and housed in dormitories or cottage homes.

Following the Commonwealth-State Ministers Conference in 1951, the Minister for Territories, Paul Hasluck, urged the Commonwealth Government to adopt a national coordination role and implement measures to encourage assimilation. Aboriginal people of full as well as mixed descent were subjected to government control. The *Welfare Ordinance 1953* replaced the 1918 *Act*, subjecting all Aboriginal people to the same welfare legislation as non-Aboriginal people. In response to concerns among non-Aboriginal Territorians that they could be subject to ward-ship under the Ordinance, the *Act* was amended to clarify that it was only designed to target Aboriginal people by specifying that people with voting rights could not be made wards. During this time the Commonwealth initiated a scheme whereby Aboriginal children were sent to southern states in foster homes or boarding schools. Towards the end of the 1960s, mission homes began to close in the Territory and foster care became more common. According to Armitage, by 1968 almost 17 percent of Territory children were in government care and by 1971, 97 percent of Territory children in foster care were Aboriginal107.

In 1973, a policy of self-management replaced the assimilation policies at both national

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106 ibid.
GROWING THEM STRONG, TOGETHER

and Territory levels. In broad terms, self-management and self-determination were key policy principles in Aboriginal affairs in Australia from 1973 through to 1996. These principles were primarily due to a growing resistance movement by Aboriginal and Torres Strait Islander peoples and brought to national prominence through the Northern Territory when the Yolŋu Elders from Yirrkala presented their bark petition to the Government in 1963 and, again, by the walk off by Gurindji stockman at Wave Hill in 1966.

Respect for Aboriginal and Torres Strait Islander rights and a growing understanding of the importance of land and culture led to bipartisan support for the passage of the *Aboriginal Land Rights (Northern Territory) Act 1976*, the establishment of the Aboriginal and Torres Strait Islander Commission in 1989 and, under the Keating Government, the Australian Parliament’s passage of the *Native Title Act 1993*.

However, at national, State and Territory levels, effective self-determination has been limited, with only land rights legislation delivering any real measure of autonomy for a minority of Aboriginal people. Equal pay for Aboriginal workers in 1968 led to some Aboriginal stockmen in the outback losing their jobs rather than receiving an increase in pay. For some Aboriginal communities, the process of being granted self-determination was experienced as one of confusion and abandonment, rather than empowerment. In reality, communities needed to engage with broader society however, little purposeful capacity building was undertaken. Trudgen recounts that, in the case of the Yolŋu people:

> Some of the old men ... wept and said directly to the missionaries, ‘Don’t leave us. We will not survive without you against these other Balanda [white fellas].’

According to Trudgen, traditional leadership structures were ignored and non-indigenous structures were placed upon the Yolŋu. There was no engagement between the two legal systems to enable self-determination in a cross-culturally appropriate way or to build community capacity for self-management. Historian Richard Broome suggests that, despite land rights leading to some communities receiving mining royalties, lack of economic self-sufficiency made autonomy problematic. The homelands movement enabled some Aboriginal communities in the Northern Territory to restore traditional ways of living and encouraged a flourishing subsistence sector in the 1980s but, for most, the problem of unemployment remained. The Community Development Employment Project devised in 1977 created a level of economic support in the absence of employment opportunities but did not lead to economic self-sufficiency. The Inquiry has seen that poverty and welfare dependency remains a dominant situation in some remote Aboriginal communities in the Northern Territory.

The Commonwealth affirmed in 1976 that child welfare, including Aboriginal child welfare, was a state and territory responsibility. Following the development in the USA of an Indian Child Welfare Act in 1978 which contained a basic principle that determined the manner of the placement of American Indian children outside their immediate families where this was deemed necessary, an Aboriginal Child Placement Principle (ACPP) was proposed by the national Council of Social Welfare Ministers in 1979 to

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109 Trudgen, *Why warriors lie down and die*.
guide the adoption and fostering of Aboriginal children. There was discussion between the Council and the Secretariat of National Aboriginal and Islander Child Care (SNAICC) around the nature and implementation of the ACPP and a version of the principle was adopted as a national policy in 1986 setting out the preferred priorities of placement where Aboriginal children needed to be removed from their natural families.

A national law reform commission report that same year recommended that the ACPP be adopted on a national basis, however, the Commonwealth Government reaffirmed that such matters are a state and territory responsibility. While eventually all Australian mainland states and territories have incorporated the principle into law in their relevant legislation or by regulation, the principle is now endorsed by the Council of Australian Governments’ (COAG) National Child Protection Framework, as well as by SNAICC.

In the Northern Territory, the Aboriginal Child Placement Principle (ACPP) is incorporated into the Care and Protection of Children Act 2007 (NT) (the Act). Section 12(1) of the Act states that ‘representative organisations have a major role in promoting the wellbeing of Aboriginal children’. However, there is currently no Aboriginal child and family welfare agency in existence for the relevant Northern Territory Government agency to consult with regarding placement options. This has, however, been on the Northern Territory Government’s agenda.

The establishment of Karu in Darwin in 1985 to provide child and family services was a false start, as it has subsequently ceased to exist. The Northern Territory Government’s response to the ‘Little Children are Sacred’ Report (Closing the Gap of Indigenous Disadvantage) spoke to this issue with a proposed $10.15 million investment, however, the actual ‘network of Aboriginal Child Protection and Care Services’ has not yet been established. According to the COAG National Framework for Protecting Australia’s Children, “the development of Aboriginal Child Protection and Family Support Services by Aboriginal agencies is a key focus in the Northern Territory reforms.”

On 21 June 2007, the Howard Government announced a national emergency response to the Ampe Akelyernemane Meke Mekarle ‘Little Children Are Sacred’ Report. The response became known as the ‘Northern Territory Intervention’ or the Northern Territory Emergency Response (NTER). The NTER designated regions of the Northern Territory as ‘prescribed areas’ (including 73 communities and associated outstations) and three emergency response Bills were enacted in Parliament:

- Northern Territory National Emergency Response Act 2007
- the Social Security and Other Legislation Amendment (Welfare Payment Reform) Act 2007
- the Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Act 2007

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113 Northern Territory Government, Closing the Gap of Indigenous disadvantage: A generational plan of action, August 2007, Appendix 1, p. 4


The NTER included the suspension of the *Racial Discrimination Act 1975* and the protection of anti-discrimination law was removed. 116 The Australian Defence Force and police were mobilised to assist in the implementation of the NTER.

Measures proposed initially under the NTER included:

- increases in policing levels, including secondments of officers from other jurisdictions to supplement Northern Territory resources
- non-compulsory, comprehensive health checks for Aboriginal children under 16 years of age, to identify and treat health problems, including identifying follow-up and ongoing health care requirements
- clean up and repair of communities to make them safer and healthier with local people encouraged to participate through Work for the Dole (WfD)
- widespread alcohol restrictions
- welfare reforms to reduce the flow of money into alcohol and substance abuse and to ensure funds intended for children’s welfare and development are used for children
- improving school attendance indirectly through the provision of school meals
- compulsory five year leases to the Commonwealth over land in 64 communities including provisions to pay reasonable compensation to relevant land owners if those leases constitute an acquisition of property within the meaning of the Constitution
- improvements to essential infrastructure in communities
- banning possession or supply of X 18+ films, restricted publications, Refused Classification material, and unclassified material that would be classified at these levels
- auditing of publicly funded computers to identify prohibited material
- changes to the permit system for access to ‘Aboriginal land’ under the *Aboriginal Land Rights (Northern Territory) Act 1976* including in relation to government officials, common areas of major communities and road corridors
- improved governance through the appointment of Government Business Managers (GBMs) to remote communities.

Responses to the NTER were mixed, but the lack of consultation and participation of Aboriginal people in the Northern Territory in the development and implementation of the NTER has been frequently criticised. Many campaigns were initiated in response to the NTER including activism aimed at the reinstatement of the Racial Discrimination Act, and members of communities such as a group from Ampilatwatja have taken a strong stand against the NTER including a walk-off and the building of a protest house as a result of feeling ‘treated as outcasts and isolated from white man’s decision making under the 2007 federal Indigenous intervention’. 117

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In many communities there is a deep belief that the measures introduced by the Australian Government under the NTER were a collective imposition based on race.

There is a strong sense of injustice that Aboriginal people and their culture have been seen as exclusively responsible for problems within their communities that have arisen from decades of cumulative neglect by governments in failing to provide the most basic standards of health, housing, education and ancillary services enjoyed by the wider Australian community.

Support for the positive potential of NTER measures has been dampened and delayed by the manner in which they were imposed.  

The National Framework for Protecting Australia’s Children 2009-2020 was released in 2009 establishing a national policy framework for improving outcomes in child and family welfare and child protection. One of the six ‘supporting outcomes’ is that ‘Indigenous children are supported and safe in their families and communities’. The following three strategies relate to Indigenous outcomes:

- expand access to Indigenous and mainstream services for families and children
- promote the development of safe and strong Indigenous communities
- ensure that Indigenous children receive culturally appropriate protection services and care.

The framework commits the Commonwealth to promote the development of safe and strong Aboriginal communities through:

- the Family Support Package which provides Remote Aboriginal Family and Community workers, Mobile Child Protection Team and 22 safe houses in the Northern Territory and
- law and order measures including specialist AFP officers in the child abuse taskforce as part of additional AFP positions.

To ensure that Aboriginal children receive culturally appropriate protection services and care Framework notes that the Northern Territory Government has committed to:

- Develop and expand the Indigenous child protection and welfare workforce, including: fostering Aboriginal controlled services to deliver support to Aboriginal families.

Further discussion relating to the development of Aboriginal child safety and wellbeing services can be found later in this chapter and in Chapter 6 of this report.

Recent inquiries addressing Aboriginal child abuse and neglect and systems responses

The past decade has seen several inquiries into child and family welfare in Australia. In this section we summarise some of the findings and recommendations relevant to the Northern Territory context. More detail on some of these inquiries is listed in Appendix 4.1. Other reviews and reports relevant to the Northern Territory context are discussed throughout the report. The inquiries and reviews represented in the summaries in this section include:

- Gordon Inquiry 2002 (Western Australia)
- NSW Aboriginal Child Sexual Assault Taskforce 2006 (New South Wales)
- Children on APY Lands Commission of Inquiry (South Australia) 2008
- Wood Inquiry NSW 2008 (and the Keep them Safe Response)
- State of Denial, SNAICC (Pocock) 2003
- Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse

These reviews and inquiries have been triggered by events such as allegations of high levels of family violence and child abuse (particularly child sexual abuse) in Aboriginal communities (although these may not be reflected in child protection data), and/or by child deaths of children and young people known to child protection systems.

While the reasons for reviewing systems for protection children and responding to child abuse and neglect may be different, the reports from these reviews had similar emphases on the findings for Aboriginal children, families and communities. These themes are repeated throughout the current report. With regards to Aboriginal child safety and wellbeing, these reviews found:

- Family violence and child abuse occur in Aboriginal communities at a rate that is much higher than that of non-Aboriginal communities but that Aboriginal people are not the only victims and not the only perpetrators of abuse
- The socio-economic factors which give rise to child abuse and neglect are more prevalent in the Northern Territory than in any other State or Territory
- The combined effects of poor health, alcohol and drug abuse, unemployment, gambling, pornography, poor education and housing, and a general loss of identity and control have contributed to violence and to sexual abuse in many forms
- There is a lack of reporting of child abuse and neglect of Aboriginal children by service providers and community members because of fear and distrust, a lack of response or of over-response from child protection and police services, a lack of confidence in agencies to be able to respond appropriately, and an acceptance of violence, abuse, poverty and chronic disadvantage as normative in some communities
- The enduring impacts of past practices of forcibly removing Aboriginal children and forcibly relocating Aboriginal communities.
In these reports, responses to the abuse and neglect of Aboriginal children (and of non-Aboriginal children) were seen to be lacking for many reasons, including:

- Child protection services are overwhelmed and the fundamental needs and priorities of families and communities are not met.
- There is a mismatch between forensic incident-based responses to problems which have their basis in systemic social inequalities.
- The lack of placement options for children and young people means they may remain or be placed in unsafe situations.
- There is a lack of roles, purpose or power of Aboriginal people within child protection systems.
- There is a lack of coordination and communication between government departments and agencies, and this is causing a breakdown in services and poor crisis intervention. Improvements in health and social services are desperately needed in the Northern Territory, and
- The poor implementation of the Northern Territory Emergency Response, particularly in its failure to engage constructively with Aboriginal people in the Northern Territory, diminished its effectiveness.

Recommendations from the reviews and subsequent reforms suggest the need for different approaches to the usual way of doing business, particularly in child protection. These themes resonate with the understandings of the current Inquiry and include the need for systems for promoting child safety and wellbeing to include the full participation of Aboriginal people and organisations and culturally competent service delivery on the part of non-Aboriginal agencies:

- Strong governance by and empowerment of Aboriginal communities. Aboriginal community involvement in decision making including the need for community leadership and local community focus.
- The need for development of and close working partnerships with Aboriginal community controlled child and family service organisations.
- The need to build trust between Aboriginal communities and government agencies.
- An emphasis on community education and community development strategies which build on the strengths of Aboriginal culture to develop community capacity and leadership to assist Aboriginal communities, to ensure the safety of their children and families and to address the problem in ways that are culturally meaningful and appropriate.
- Recruitment, retention, training and support of the workforce including development of Aboriginal professional workforces as well as pathways to encourage more Aboriginal specialists and doctors, training of interpreters, more Aboriginal liaison workers, and better salary and conditions.
- Development of cultural competence for non-Aboriginal workers.
- More workers who are based in communities.
Suggested improvements to service design and delivery have included:

- The need for overarching frameworks which incorporate prevention, early intervention and child protection responses
- The need for better responses to address family violence and child abuse which include comprehensive early intervention and prevention services to support families at risk of violence and child abuse and to promote the wellbeing of Aboriginal children and young people
- The need for integrated service provision and service coordination which addresses the shared and the different needs of communities
- The need for better information sharing between agencies sharing and greater co-operation, including the implementation of interdisciplinary and holistic team approaches and more frequent meetings between state departments, Aboriginal services, mainstream NGOs and police
- Significant improvements to statutory child protection services including better resourcing
- The need for monitoring and evaluation of system reforms to see if they have led to improvements.

Specific approaches which were advocated in an integrated and targeted approach to working with Aboriginal children and families included:

- The need to address social disadvantage and improve community, social and physical infrastructure in the areas of housing, human services, local courts (but not at police stations), police, corrections
- The need for therapeutic and healing approaches for Aboriginal people which address intergenerational traumas
- Stronger justice interventions and night patrols
- Adoption of restorative justice and family decision-making approaches
- Restrictions on the sale, delivery and use of alcohol in Aboriginal communities
- Strategies to promote greater school attendance.

**Determinants of social and emotional wellbeing for Aboriginal children and families**

The social and emotional wellbeing concept is broader than [the concept of mental health] and recognises the importance of connection to land, culture, spirituality, ancestry, family and community, and how these affect the individual. Social and emotional wellbeing problems cover a broad range of problems that can result from unresolved grief and loss, trauma and abuse, domestic violence, removal from family, substance misuse, family breakdown, cultural dislocation, racism and discrimination, and social disadvantage. 

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As identified in the quote above, Aboriginal people are exposed to many risk factors and stressors that often co-occur and are experienced across generations in the same family. While single risk factors may not convey significant risk, the likelihood of experiencing multiple stressors is greater for Aboriginal people compared with non-Aboriginal people. The stress, chaos, social exclusion and demoralisation caused by the experience of multiple risk factors such as unresolved grief and loss, abuse, violence, and removal from family and country may be overpowering even in the presence of protective factors such as connection to land, culture, spirituality, ancestry, and family (as depicted in Figure 4.1).

**Figure 4.1 Risk and protective factors for serious psychological distress**

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<th>Protective Factors</th>
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<td>Remote Living: connection to land, family, culture, spirituality</td>
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<th>Stressors or Predictors of Serious Psychological Distress</th>
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<td>Poverty: unable to pay food &amp; rent (40%)</td>
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<td>4 or more health conditions (62%)</td>
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<td>Adverse life events: 3 or more (27%), 8 to 11 events (46%)</td>
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<tr>
<td>Relative removed (40%)</td>
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<td>Remoteness (exposure to more stressors)</td>
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Many people on remote Aboriginal communities live with inadequate access to the determinants of social and emotional wellbeing and health — lack of adequate housing, nutrition, employment, education, financial security, and community safety. Children subject to child protection concerns are more likely to be in families with poor diets, in overcrowded and substandard housing, and in families who have no employment or occupation. These children engage inadequately with schooling and live in communities where poor health, violence, alcoholism and drug abuse is common and where basic safety needs are not met. The Inquiry heard many complaints from people on remote communities about the prevalence of three Gs – grog, ganja (marijuana), and gambling. These issues are explored briefly below, and again in Chapter 6 in the wider context of determinants of abuse and neglect for all children.

121 Silburn et al., The Western Australian Aboriginal child health survey: Strengthening the capacity of Aboriginal children, families and communities.
122 Zubrick et al., ‘Social Determinants of Aboriginal and Torres Strait Islander Social and Emotional Wellbeing’.
The care and protection needs of children and young people in Aboriginal communities are largely related to poverty and disadvantage rather than culture. Exposure to violence and a lack of adequate food and shelter is a common experience for many children and young people. The pervasive nature of poverty, trauma and associated social issues such as alcohol abuse, gambling and violence, means that most Aboriginal communities and families in the Northern Territory are affected in some way.124

The Inquiry’s observations

The Inquiry visited 15 remote communities around the Northern Territory and heard from representatives of many others. It found significant diversity between the communities. Some have high morale and a strong sense of enterprise but others could be characterised as demoralised with a poor, ill-maintained physical infrastructure, overcrowded houses and overwhelming social problems. The Inquiry encountered a sense of disempowerment and alienation. The conditions for children on occasion, appeared unsafe and unhygienic. In some communities there was no street signage around schools, public play equipment was manifestly unsafe. Dogs, many of which appeared ill or injured, roamed freely and the Inquiry heard of incidents in which dogs had attacked both children and adults and where infants were living in houses with multiple (often 10 or more) dogs and playing in grossly unhygienic surroundings. Community members frequently stated that one of their greatest needs was help with parenting their children. They stated that they had difficulties setting and enforcing boundaries.

There was relatively little understanding about the child protection system but a widespread concern that authorities could remove children. Some communities asked if there could be local child safe houses so that removed children could remain close to culture.

Even in the better functioning communities school attendance was poor - often fewer than 50 percent of the eligible children were in attendance. Some teachers complained that many children treated school as a drop-in centre.

A fundamental issue in addressing Aboriginal child safety and wellbeing is the need for an improvement of living standards across communities, with the appropriate target of intervention being at a community level, in addition to providing services to a family or individual. Without a significant betterment in living standards there will continue to be high rates of child safety and wellbeing concerns. Improving child wellbeing on remote communities must simultaneously consider approaches which enhance capacity for Aboriginal people on those communities to take a greater charge of their own lives.

The situation is made even more complex by the distribution of population – being such that the ratio of Aboriginal adults to children is much smaller than the Australian average.125 This is compounded by the adults having more serious difficulties with disease, substance abuse, gambling or other factors. This situation has major implications for supervision, the availability of carers, and myriad other issues such as burnout of the grandmothers and aunties who have often assumed the child rearing responsibilities.

124 Submission: NTCOSS.
125 See figures in Chapter 2.
Housing

Overcrowding has a significant impact on family wellbeing. It can discourage stable relationships, add significant stress to all concerned, and place pressure on food and financial security. Children share sleeping spaces with adults, with possible exposure to sexual activity. Sleep will be disturbed in a crowded sleeping environment with consequences for waking in time for school and daytime sleepiness affecting performance, among other issues.

The Inquiry heard that even where there is significant investment in refurbishment of houses plus the building of new dwellings on some remote communities, in the medium term this will reduce the average home occupancy from the high to the early-teens, while in another, the housing program will reduce average occupancy from 18 to nine in two to three years. This is still not satisfactory. The Inquiry notes with interest that the Department of Housing, Local Government and Regional Services is moving from a focus on asset management to seeing itself as a human services agency, playing a greater role in training tenants around the use of appliances, hygiene, and basic maintenance, among other things.126 This is both progressive and necessary.

Education for Aboriginal children

Non-attendance at school is a strong predictor of adverse outcomes for children, including contact with the child protection and juvenile justice systems. Many submissions argue that in Aboriginal communities, and for a variety of reasons, children often do not engage with the education system.

School attendance is determined by a number of factors, including the education system, individual schools and individual teachers, family and child, peers, and by other families and community expectation. More in depth discussion about solutions correctly lies outside the scope of this Inquiry. We note this issue is critical, and that the education system with its birth to jobs focus appears to at least recognise this. The Inquiry believes that empowering families through parenting education may assist but consider this to be an issue that needs to have the urgent attention of Northern Territory Department of Education.

Aboriginal children are under-represented in early childhood education and care services. Aboriginal children in the Northern Territory comprise 41.4 percent of the population but represent only 9.8 percent of children who attend early child care services127. Early education opportunities can serve as avenues for transition to the next level of education.

The attention of the Inquiry was drawn to some positive educational programs which have improved regular school attendance for Aboriginal children. We have also heard of ‘Growing Our Own’, an Aboriginal teaching assistants’ training program run by the Catholic Education Office, schools which work with community elders and family groups in novel ways, such as at Angurugu, and dedicated education professionals who start their school day by driving around communities themselves picking up students from their homes.

127 Submission: NTCOSS.
**Nutrition**

Under-nutrition is a significant problem among Aboriginal children in the Northern Territory, and a common reason for referring children to the statutory authority. While the majority of children do not meet criteria for a diagnosis of malnutrition (wasting, stunting, underweight) or anaemia, a significant minority do. The reasons for this are numerous and the solutions complex. Among other things, the education and feedback to communities of child nutrition data are important.

**Substance misuse**

Alcohol misuse continues to be a major problem on many remote communities, despite the signage which suggests the problem should no longer exist. Alcohol misuse has effects far broader than child wellbeing and its effects are widely documented. Its association with violence is well known, it consumes money that might otherwise be spent on food or other resources for children and families, it decreases ability to care for children when inebriated, and drinkers, while disinhibited, may consume food which might otherwise be intended for children. Drinking while pregnant is associated with the foetal alcohol spectrum disorder and child cognitive impairment. Alcohol misuse has a strong correlation with violence. There are clear implications for child protection.

**Violence**

Within a crowded house there is a lack of privacy. Family members with problems such as alcohol, or other drug misuse, cannot drink or use their drugs secluded from others, including children. Overcrowding means that family violence will always happen in front of others, resulting in fear and feelings of insecurity for children, as well as poor role modelling for problem solving. Children are occasionally caught in ‘crossfire’.

High levels of violence, particular family violence in some communities, were reported to the Inquiry. A common theme in submissions and hearings was the lack of a sense of community authority to assist in dealing with violence.

**Socioeconomic disadvantage and employment**

‘The arrival of welfare benefits in remote communities often resulted in the demise of small business activities, and the withdrawal of communities from the broader economy. Some serious work is needed to break the cycle of inter-generational welfare dependency, and the revival of a business development focus’. Unemployment for Aboriginal people in the Northern Territory is 34 percent and almost certainly higher on remote communities.

A key question for the Northern Territory which goes beyond the reach of this Inquiry is how to create an environment where Aboriginal people can find meaningful employment and economic independence while remaining on their traditional lands. This question is particularly relevant given the evidence that connection to land and culture has profoundly positive impacts on health and wellbeing.

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128 Skov et al., ‘How much is too much? Alcohol consumption and related harm in the Northern Territory’.
129 Communication with Bob Beadman.
130 K Rowley et al., 2008, ‘Lower than expected morbidity and mortality for an Australian Aboriginal population: 10 year follow up in a decentralised community’, *Medical Journal of Australia*, vol. 188, pp.283-87.; Submission: Sunrise Health Service Aboriginal Corporation.
Chapter 4: Responding to the Particular Needs of Aboriginal Children

Grief and loss

Added to this is the ongoing sense of loss and grief experienced when living in a community where death is common. In Aboriginal culture even young children commonly attend funerals. The high community mortality rate and attendance at funerals must have a profound emotional impact on children and should be considered a community issue that needs to be addressed.

Parenting

The Inquiry heard parents and grandparents speak about a sense of loss of control over children and young people, particularly those living in remote communities. Many submissions raised concerns about the lack of respect for adults, including Elders.

The young age at which Aboriginal girls have their first babies is notable. Pregnancies that occur at the young and old extremes of child-bearing years are associated with poorer outcomes for their children when compared with the offspring of mothers well inside these extremes. The growing number of teenage parents, some with limited parenting skills, some lacking or unwilling to accept guidance or mentoring from family or elders, have few if any opportunities to access parenting education. The number of teen parents suggests that at a minimum there is a need for sex education.

Many older women on remote communities expressed despair about their own exhaustion resulting from teenage mothers leaving children with them to look after while they are gone, sometimes for days at a time. They see these young mothers as not taking appropriate responsibility for their children.

Parenting education programs targeting vulnerable and very young mothers are valuable but there is a particular need to target them towards individual family circumstance. For example, they may need to focus on behaviour, relationships, discipline, sleep, or any number of specific issues.

Recent developments and their impact

There have been several significant changes in Aboriginal communities in the Northern Territory in recent years. Major change has occurred for several reasons, first, as a result of the reform of local community councils to the system of shire governance and, second, as a part of the Northern Territory Government’s Working Future policy. Working Future is the framework for the development of the 20 Growth Towns and this has implications for the future resources available to remote communities that lie outside the service delivery perimeters of the growth towns. Many Aboriginal people living in remote communities are unsettled as a result of the process of change.

Consultation with people on remote communities is essential, however, the Inquiry has heard from people suffering from ‘consultation fatigue’. Rather than suggesting there is something wrong with consultation, this term suggests to us that there is risk involved in so much change occurring over a short period of time or in consultations not being thought out.

131 A Anderson (Minister for Indigenous policy) & P Henderson (Chief Minister), 20 May 2009, A working future: Real towns, real jobs, real opportunities, media release, Northern Territory Government.
Several submissions contend that the nature of some of the changes contributes further to the disempowerment of Aboriginal communities and may actually diminish community capacity. There is evidence, for example, that while recent changes to compulsory income management have resulted in more positive outcomes for some people, there are also numerous unintended consequences. Some people feel demoralised as a result of compulsory income management and stigmatised by signage on proscribed communities prohibiting alcohol and pornography. Alcohol prohibition in communities has led to the movement of drinkers to the fringes, where supervision for children may be even worse or, the movement of drinkers to towns after leaving their children with others to look after.

**Self-determination and cultural capital**

The sense of having control over one’s own life as an individual is a strong correlate of personal wellbeing. The significance of a people or ethnic group having control over their own collective lives is an extrapolation of this. There is powerful evidence in the international literature that both personal and political self-control correlate highly with health and wellbeing outcomes. Factors which are seen to mediate this include psychological stressors, socioeconomic status, freedom from racism, access to care, and so on\(^{132}\). Conceptually, self determination and self efficacy are underpinned by the long standing ethical principle of personal autonomy and respect both of which are foundational ethical principles underlying child protection systems.

A recent study from Canada by Michael Chandler and Travis Proulx for the International Academy for Suicide Research, has pointed out that as measures for self-determination, community governance and culturally-based services increase in Aboriginal communities, youth suicide dramatically decreases. The more Nation or tribal ‘bands’ groups have control over and cultural input into governance, health, education, policing, resources and seeking title to land, the lesser the incidence of youth suicide. This research has implications for the Northern Territory as it suggests that being on your own land, having a form of self-government, and having Aboriginal health services and policing all combine to create a sense that there is not only a proud past – but a promising future for young people.

**The need for a different approach**

Societal, environmental and poverty-related risk factors for children exist across all of society. However, when looking at risk factors impacting on Aboriginal children in child welfare the impacts of intergenerational experiences of dispossession, cultural erosion and policies of child removal must be considered. These issues not only impact on families, but also on the ability of families to seek or accept help from a system perceived to have caused or contributed to problems in the first place.

As the submission from Tangentyere Council suggests:

> In many ways the contemporary ‘child protection’ system reflects the very system that traumatised many people and was in no way protective. Understanding this history is critical to creating a system that will work to protect our children and support our families.

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\(^{132}\) G Henderson et al., 2007, ‘Social and emotional wellbeing of Aboriginal and Torres Strait Islander people within the broader context of the social determinants of health’, *Auseinetter*, vol. 29, no. 2, pp.14-19.
Similarly, Northern Territory Families and Children (NTFC) Therapeutic Services team, explain why families may be reluctant to engage with services:

> Our history of attempted genocide of the Aboriginal people has led to extreme dysfunction in both remote and urban Aboriginal families. Stolen generation families are often the most difficult to work with due to this history. They often refuse intervention and under the current system the lack of ability to force earlier intervention leads to the kids being ‘more’ abused and eventually entering care. It is a self fulfilling prophecy for these families. We need to adapt our system to reflect the local history and context.

The Inquiry notes that in the Northern Territory there is a need for major reforms to build an Aboriginal child and family welfare system with the capacity to honour the strengths of Aboriginal communities and to espouse their values and practices. Recognising the fact that despite colonisation, Aboriginal culture, families and communities have strengths must be at the heart of any work with Aboriginal children, their families, their kinship relationships and their communities.

A strengths-based approach will encourage Aboriginal families to positively engage with support services and enable Aboriginal communities to provide good care for their children. The primary focus however, must be the safety of children and build on key learnings from past inquiries and reports.

The principle of self-determination for Aboriginal people was supported by this Inquiry early in its deliberations. The issue was endorsed strongly in the *Bringing Them Home* report which documented the findings from the Human Rights and Equal Opportunity Commission's (HREOC) Inquiry into the separation of Aboriginal and Torres Strait Islander children from their families:

> Clearly, the implementation of self-determination is important for juvenile justice, child welfare, adoption, and family law matters. It is the principle grounding a right for Indigenous people to exercise control over matters directly affecting their children, families and communities. The Indigenous perspective on self-determination provides for the development of control over these areas of social life through processes which may involve some form of autonomy or self-government.133

What this and other important reports have found is that before informed decisions can be made there needs to be proper negotiation between government and Aboriginal communities and organisations relating to self-determination in juvenile justice and child protection matters. Communities must be in a position to make choices about what they see as suitable long-term sustainable solutions to particular issues134.

According to submissions received and the views of numerous witnesses in hearings and remote communities heard by the Board of Inquiry, apart from some Aboriginal workers within NTFC, there is almost no input by Aboriginal people into a system for protecting children in the Northern Territory. There is little if any engagement that builds on ideals of self determination and the rights to individual or collective autonomy. Aboriginal

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133 Human Rights and Equal Opportunity Commission (HREOC), *Bringing them home* report, p.496.
134 ibid.
families want more Aboriginal people to be involved in the system for protecting their children – even though they know that such a system does require coercive powers to be used at times. It is clearly important for the purpose of this Inquiry that the direct involvement of Aboriginal people becomes a priority.

The challenge facing Aboriginal community controlled organisations today is to move from static influence – that is, being consulted in a marginal, and frankly disempowering way – to one of dynamic influence, and to grow where there is the ability to engage with governments to be directive and eventually be the decision makers when it comes to Aboriginal children. When looking at the amount of work to be undertaken it is surely going to be a big task – in some ways it is far easier to be a voice on the sidelines asking ‘what are you doing?’ than it is having full self-determination and being able to action your rights through taking up your responsibility. Hence capacity building is critical for Aboriginal people and a task that can be achieved if there are partnerships and the legislative and resourcing frameworks are right.

Model for participation of Aboriginal people in decision making in the field of child protection

Many people in this country, including many leaders and moulders of public opinion, speak of everyone having or being given equal rights in our society. This is a glib, albeit seductively expressed, point of view. If two people commence life far apart in assets, whether personal or material, and they thereafter receive proportionately equal benefits, the gap between them actually increases. In other words, equal treatment of people on unequal levels at the outset of the equalisation process merely perpetuates the inequality. Hence the superficially attractive appeal of “everyone should be treated equally” as from now is in fact a recipe for retaining differences, imbalances and discrepancies because of the commencing inequality.  

Building on its commitment to self determination, the Inquiry proposes a conceptual model for consideration of and participation by Aboriginal people in the delivery of programs and services to Aboriginal children and young people involved in the child protection system and in all aspects of decision-making (see Figure 4.2). Adhering to the ethical principle of autonomy we begin from the premise that Aboriginal involvement is critical, and greater Aboriginal involvement than the status quo is essential. Not only is enabling self determination an ethical responsibility but a right of Aboriginal people as Australia is a signatory to the United Nations Convention on the Rights of Indigenous Peoples which holds self-determination to be a fundamental right. As described earlier, there is evidence that where the degree of a group’s control over their own lives is greater, the outcomes are better and, where control is less, outcomes for children are worse. Respect for Aboriginal empowerment and cultural connection is not just a right. International research and practice demonstrates the importance of Aboriginal self-determination and the resilience of culture as best practice.


## Figure 4.2 Framework for the inclusion of Aboriginal people in child safety and wellbeing

### Stakeholders
- Aboriginal Co-ordination Council
- Chief Minister & relevant Ministers
- Heads of Northern Territory Government Departments
- Relevant State Managers of Commonwealth Departments
- Senior Northern Territory Government officials
- Peak Aboriginal organisations
- Aboriginal Child and Family Welfare Council
- Relevant Managers of Commonwealth and local Government Departments
- CEO’s and Senior staff of Aboriginal organisations
- Relevant Government Program Managers
- CEO’s and Senior staff of mainstream organisations
- Relevant staff of Commonwealth Departments
- Aboriginal professional staff
- Aboriginal Program Coordinators in community organisations
- Mainstream staff and Coordinators
- Regional Government staff
- All members of Aboriginal communities
- Community leaders
- Aboriginal Services

### Key Components

#### LEGISLATION
To enhance the status of the Northern Territory Aboriginal community with a focus on the safety and wellbeing of children and young people

#### POLICY & PLANNING
To provide a policy and planning framework to address Aboriginal disadvantage

#### SERVICE DELIVERY
To provide a well funded culturally appropriate quality service system

#### PRACTICE
To provide culturally appropriate skilful interventions that focus on making positive changes for families

#### COMMUNITY
An Aboriginal community that is culturally strong, resilient and achieving across all socio economic measures.

### Characteristics
- Outlines obligations of Government
- Statement of commitment to enhance the wellbeing of the NT Aboriginal community
- Determine indicators
- Integrated policy and planning across Government portfolios
- Three key policy objectives:
  - Protect and promote Aboriginal child wellbeing
  - Improve the socio-economic status of the community
  - Promote Aboriginal culture
- Integrated universal, secondary and tertiary system
- Culturally appropriate service response
- Culturally appropriate case management, engagement and intervention practices
- ‘Skilling up’ Aboriginal workforce across the continuum of care
- ‘Skilling up’ of non-Aboriginal workers in cross cultural practice
- Development of community action plans to address issues of disadvantage
- Active participation
- The development of strong communities with focus on culture
1. **Legislation** - To enhance the status of the Northern Territory Aboriginal community with a focus on children and families there needs to be a legislative base to govern the actions of all those who hold a responsibility and a capacity to refocus the Northern Territory towards achieving significant change for Aboriginal children and young people.

   **Characteristics** – That outlines obligations of Government and the role of the Aboriginal community with a statement of commitment to enhance the wellbeing of the Northern Territory Aboriginal community.

   **Stakeholders** – to drive legislation there needs to be engagement of Aboriginal people to provide high level advice to the Chief Minister and relevant Ministers, heads of Northern Territory Government departments and given the significant investment by the Commonwealth that there be an engagement in the process of relevant State Managers of Commonwealth Government departments.

2. **Policy** – To provide a framework to address Aboriginal disadvantage that leads to the development of a policy for Aboriginal Children’s Services in order to:

   i. Rationalise the delivery of services to Aboriginal children in their communities

   ii. Develop targets, aims and priorities to overcome disadvantage by Aboriginal children

   iii. Improve coordination and cooperation between governments and with non-governments agencies towards the targets and aims of an Aboriginal policy

   iv. Carry out a mapping exercise of funded government and non-government services to identify their service hinterland, the kind of service they provide and the level of funding they receive

   v. Seek information on their services to Aboriginal children.

   **Characteristics** – Integrated policy and planning across Government portfolios with three key policy objectives to:

   i. Protect and promote Aboriginal child wellbeing

   ii. Improve the socio-economic status of the community

   iii. Promote Aboriginal culture.

   For example, the New South Wales Government has developed guidelines and as assessment measure to make sure the impact of the implementation of the Keep Them Safe reforms on Aboriginal people is considered.

3. **Stakeholders** – Senior State Government officials, Peak Aboriginal organisations, Aboriginal Child and Family Welfare Council and relevant Managers of Commonwealth and local Government Departments
4. **Service delivery** – To provide a well-funded culturally appropriate quality service system that is accessible and is assertively engaging and delivering services to Aboriginal children and their families.

**Characteristics** – Integrated universal, secondary and tertiary system that provides a culturally appropriate service response. State standards to include training targets and the development of a career structure for Aboriginal children’s services workers. Provision of resources for program development, training and funding of services and demonstrate a willingness to listen and be open to change.

**Stakeholders** - CEO’s and Senior staff of Aboriginal organisations, relevant Government Program Managers, CEO’s and Senior staff of mainstream organisations and staff of Commonwealth Departments.

5. **Practice** – To provide culturally appropriate skilful interventions that are child focused and family-centred.

**Characteristics** - Culturally appropriate case management, engagement and intervention practices. ‘Skilling up’ Aboriginal workforce across the continuum of care. ‘Skilling up’ of non-Aboriginal workers in cross cultural practice. Improve its working practices and to proactively embark upon establishing relationships with Indigenous communities. Recognise and validate the role of Aboriginal children & family services. Insist on flexibility in training and qualification recognition for employment in services, particularly through Recognition of Prior Learning (RPL) policies

**Stakeholders** - Aboriginal Manager, Aboriginal Supervisors in community organisations, Mainstream staff and Coordinators, Regional Government staff. Demonstrate a willingness to listen and be open to change.

6. **Aboriginal community** - An Aboriginal community actively involved in raising their children culturally strong, resilient and achieving across a range of wellbeing indicators.

**Characteristics** - Development of community action plans to address issues of disadvantage, active participation, with the development of strong communities with focus on culture.

**Stakeholders** - All members of Aboriginal communities, Community leaders, local services.

**Recommendation 4.1**

That the Northern Territory Government develops a clear framework for the inclusion of Aboriginal people in child welfare as the basis of an Aboriginal child safety and wellbeing plan and that measures are developed against each key component of the framework with progress reported annually.

**Urgency:** Within 18 months
Cultural competence

The model below is useful for mainstream organisations to use in reviewing their interactions with Aboriginal people and organisations and in order to assist in generating more Aboriginal involvement in their own futures. It is an adaptation of a continuum of cultural competence proposed by Cross et al.\textsuperscript{137} and is useful in considering where to place on the continuum the current system for protecting children in the Northern Territory.

<table>
<thead>
<tr>
<th>Cultural destruction</th>
<th>Cultural incapacity</th>
<th>Cultural blindness</th>
<th>Cultural pre-competence</th>
<th>Cultural competence</th>
<th>Advanced cultural competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Intentionally destructive</td>
<td>Not intentionally destructive, but unable to help Aboriginal people</td>
<td>Expresses philosophy of being unbiased</td>
<td>Recognises its weaknesses and attempts to make specific improvements</td>
<td>Acceptance and respect for difference</td>
<td>Advocates for cultural competence throughout system and beyond</td>
</tr>
</tbody>
</table>

For example: Policies of the recent past regarding child removal based on race

| Paternalistic approach to ‘lesser’ races; lower expectations | Believes mainstream helping approaches are universally acceptable | Tries to do better; eg. recruits Aboriginal staff, efforts in cultural competence training | Adaptations to services to meet client needs with advice and consultation | Staff have expertise in culturally competent practice; leadership roles locally and beyond |

Aboriginal controlled child welfare services in Australia

Historically Aboriginal Services were set-up through political action and activism. They have broad objectives including cultural advancement, community development, Aboriginal rights, alleviation of poverty and service delivery. Many of these objectives are still relevant today however the services provided have broadened to include health, housing and welfare. Aboriginal services operate precisely because of the inability and reluctance of Aboriginal people to access mainstream services. Aboriginal Services are different and more than just service delivery organisations. The differences include:

- first, their aspirations for self-determination and the assertion of their Aboriginal status through these organisations
- second, their values systems
- third, kinship systems, and
- lastly, the way they are related to and influenced by the disadvantage of the Aboriginal population they serve.

\textsuperscript{137} T Cross et al., 1989, \textit{Towards a culturally competent system of care: A monograph on effective services for minority children who are severely emotionally disturbed}, Georgetown University child development centre, Washington DC.
Aboriginal Child Care Agencies (ACCAs) are practical examples of self-determination by Aboriginal and Islander people, rejecting the notion of Aboriginal people being passive recipients or, worse, victims of a government imposed welfare system. Not all states and territories accord statutory recognition to their ACCA although this is the preferred position for authorising Aboriginal agency; however the system is stronger when this is indeed the case.

The first ACCA in Australia was established after the Victorian Aboriginal Legal Service, and other Aboriginal community controlled services throughout Victoria, noted that the vast majority of their adolescent clients had been in institutions with a background of being in non Aboriginal out of home care placements\textsuperscript{138}.

At the First Australian Adoption Conference in 1976, Sommerlad presented outcomes of her workshop with Aboriginal participants concerning adoption, which called for self-determination to be seen as a fundamental principle in matters of child protection and welfare.

Self-determination is the guiding principle underlying current policies for Aboriginal People. Aborigines have demonstrated that the services that are most responsive to the needs of Aboriginal people are those which are organised and controlled by blacks. The Aboriginal Legal Service and the Aboriginal Health Services extend a service to Aboriginal people in need, reaching thousands more than similar services operated by whites. Aborigines would therefore like to see the establishment of Aboriginal adoption and fostering agencies to be responsible for the placement of all Aboriginal children\textsuperscript{139}.

The late Aboriginal leader, Mollie Dyer, visited the United States in 1976 to observe Indigenous child welfare practice. At that time, the US was working towards legislating for the Indian Child Placement Principle, which it did two years later under the United States \textit{Indian Child Welfare Act (ICWA)}. The ICWA transferred authority over Indian children on reservations to Tribal courts and specified the manner of the subsequent child placement. Thereby Native American courts were given jurisdiction over their children from reservations over and above the jurisdiction of state courts. The ICWA also enabled the Federal Government of the United States to fund related Indigenous child welfare services.

Mollie Dyer returned to Australia, inspired by achievements in the US regarding the Native First peoples. She then went on to establish the first Aboriginal community controlled child and family welfare service in 1977 which is now known as the Victorian Aboriginal Child Care Agency (VACCA). VACCA provides delivers a range of child centred and family focused program and services and is recognised as a key advocacy voice for Aboriginal children and their families in relation to child protection and child welfare matters.

In 1981 the Secretariat for National Aboriginal and Islander Child Care (SNAICC) was founded as the peak national body for advocacy on Aboriginal child and family welfare issues. A range of Aboriginal and Torres Strait Islander community controlled services in child care, early education and child and family welfare have been established in most states. SNAICC is the national non government peak body in Australia representing the interests of Aboriginal and Torres Strait Islander children and families. SNAICC


\textsuperscript{139} D Sommerlad, ‘Homes for blacks: Aboriginal community and adoption’ (paper presented at the Proceedings of the First Australian Conference on Adoption, University of New South Wales, 1976).
currently has a membership base of Aboriginal and Torres Strait Islander community based child care agencies, multi-functional Aboriginal Children’s Services, crèches, long day care child care services, pre schools, early childhood education services, early childhood support organisations, family support services, foster care agencies, link up and family reunification services, family group homes, community groups and voluntary associations, and services for young people at risk.

The Aboriginal Child Placement Principle is incorporated into the Northern Territory Care and Protection of Children Act 2007, which also states in Section 12(1) that ‘representative organisations have a major role in promoting the wellbeing of Aboriginal children’. However, there is currently no Aboriginal child and family welfare agency in existence for the Department to consult with regarding placement options. This has been on the government’s agenda, however. The establishment of Karu in Darwin in 1985 to provide child and family services was a false start, as it has subsequently ceased to exist. The Northern Territory Government’s response to ‘Little Children are Sacred’, was the Closing the Gap initiative. This spoke to this issue with a proposed significant investment in Aboriginal services, however this agenda was overtaken and few new services resulted. According to the Council of Australian Governments (COAG) National Framework for Protecting Australia’s Children, ‘the development of Aboriginal Child Protection and Family Support Services by Aboriginal agencies is a key focus in the Northern Territory reforms.’

The case for an Aboriginal controlled child care agency or agencies

Reform of the system protecting children in the Northern Territory must recognise the ACPP and involve a fundamental change in the way child protection and family support services involve and interact with Aboriginal people.

Aboriginal role in child protection

For Aboriginal children requiring placement in out of home care there are not enough Aboriginal family placements available. An Aboriginal controlled service is likely to be better able to recruit suitable carers and retain their services than a government department as it is more likely to be able to build engagement and trust by way of better understanding this client group. This is in addition to an advisory role to the Department on the suitability of the placement or alternative placement options, or the provision of cultural support.

As a whole, there is currently little Aboriginal overview of the child protection and family support service system. Given the lack of trust of ‘welfare’ by Aboriginal communities, having no overt influence on or involvement in the system adds to mistrust.

By necessity, a key to creating safer environments for Aboriginal children is to build the capacity of the Aboriginal community to deal with its own issues. One conduit to this is for NTFC to undertake an aggressive recruitment, training strategy to up-skill and employ Aboriginal professionals in the child wellbeing and protection sector. However, the Inquiry considers it is likely an Aboriginal controlled agency will be better able than government to employ and retain Aboriginal staff.

140 Council of Australian Governments, Protecting children is everyone’s business, p.51.
Across jurisdictions there are many variations to the role that Aboriginal services play. In some jurisdictions they do out of home care, some do out of home care and family support. Some, like the Victorian Aboriginal Child Care Agency, operate across child protection, out of home care and provide family support. Their role in child protection is through the Lakidjeka Aboriginal Child Specialist Advice and Support Service, run by the Victorian Aboriginal Child Care Agency (VACCA). This is one example of a model that could be developed and developed elsewhere. Lakidjeka responds to all notifications to Child Protection regarding Aboriginal and Torres Strait Islander children on a state-wide basis (excluding Mildura LGA). A funded protocol between VACCA and the Victorian Department of Human Services (DHS) clearly outlines the need for DHS to contact VACCA when they receive notification in relation to an Aboriginal child.


1. For the purposes of this Act the Aboriginal Child Placement Principle is that if it is in the best interests of an Aboriginal child to be placed in out of home care, in making that placement, regard must be had—
   a. to the advice of the relevant Aboriginal agency; and
   b. to the criteria in subsection (2); and
   c. to the principles in section 14.

2. The criteria are—
   a. as a priority, wherever possible, the child must be placed within the Aboriginal extended family or relatives and where this is not possible other extended family or relatives;
   b. if, after consultation with the relevant Aboriginal agency, placement with extended family or relatives is not feasible or possible, the child may be placed with—
      i. an Aboriginal family from the local community and within close geographical proximity to the child’s natural family;
      ii. an Aboriginal family from another Aboriginal community;
      iii. as a last resort, a non-Aboriginal family living in close proximity to the child’s natural family
   c. any non-Aboriginal placement must ensure the maintenance of the child’s culture and identity through contact with the child’s community.

Interestingly, Section 13(1)(a) of the Northern Territory Act refers to ‘advice of the relevant Aboriginal agency’. The Victorian Act gives explicit instruction how workers are to engage opinions of the Aboriginal community with respect to every Aboriginal child. That this is mandated by an Act of Parliament is notable. The absence of such an Aboriginal agency in the Northern Territory has been noted already.

The Inquiry agrees with Danila Dilba and others who submit that:
An essential first step in building a true partnership between the Northern Territory government, Aboriginal communities and Aboriginal and Torres Strait Islander agencies is to agree on a framework of principles that will underpin our approach to child protection.\textsuperscript{142}

Danila Dilba and others propose not only consultation but describe some of the elements that could be contained within an Aboriginal Child Care Agency (ACCA). Submissions suggest that each program element within the model could be run by existing Aboriginal agencies. It may not be necessary to create a new organisation or organisations– it may indeed be a better approach to see what elements could be taken on by existing Aboriginal agencies.\textsuperscript{143}

The Inquiry witnessed first hand the work of Aboriginal health workers, acknowledges the importance of their role in communities and believes that much can be gained by having co-location of services to support families. However the Inquiry believes that it is critical in the area of child safety and wellbeing that there is a concerted effort to raise the profile in order to address the specific issues raised throughout this report as it relates to vulnerable and at risk Aboriginal children and young people.

Core child safety and wellbeing functions which could be performed by an ACCA include:

- Provision of advice from an Aboriginal perspective to government and the sector regarding child protection
- Independent advocacy for children and families around dealing with the statutory authority and court
- Targeted family interventions
- Acting as representatives on decision-making committees and teams
- Assisting the development of an Aboriginal workforce
- Family group conferencing
- Joint investigations with the statutory authority to screen and assess issues which can be managed via this alternative pathway
- Early intervention via in-home support and family support
- Foster care recruitment, assessment, training and support
- For children in out-of-home care (OOHC), facilitation of contact with their family of origin,
- In time, the provision of OOHC via models not restricted to foster care.

SNAICC contends that all Aboriginal and Torres Strait Islander communities need access to a community controlled Aboriginal and Islander Child Care Agency that includes the following six elements as separate but linked and coordinated programs:

\textbf{\textit{a)} Family support and early intervention:}

- A holistic range of culturally appropriate services and programs to support Aboriginal and Torres Strait Islander families raising children. Services should include:

\textsuperscript{142} Submission: Danila Dilba.
• General family support – General culturally appropriate support for Aboriginal and Torres Strait Islander families through the provision of parenting resources and advice e.g. health, nutrition, education, child development, emergency relief, household management and budgeting.

• Support groups – Additional support activities and programs such as playgroups, men’s and women’s groups and camps to promote and encourage child/adult interaction and bonding, and peer support for parents and young people.

b) **Intensive family support:**

• Culturally sensitive programs and advocacy for Aboriginal and Torres Strait Islander families where there are child protection concerns or intensive support needs. Services should include:
  
  • Therapeutic services or referrals – Counselling, drug and alcohol programs, and intensive parenting programs
  
  • Family preservation – Intensive work with Aboriginal and Torres Strait Islander families once there has been a notification to build capacity to care for their children, manage in crisis situations and provide intensive support to prevent children being placed in care.
  
  • Family reunification – Support for reunification of children in out-of-home care with their birth parent, siblings, extended family and/or significant others through intensive assistance to families to address the issues that led to the child being removed, or to locate extended family members able to care for the child.
  
  • Family decision making – Facilitate forums to encourage family members and extended family to contribute to decision making processes regarding the best interests of children notified to child protection authorities.

c) **Child Protection advocacy and advice:**

• Community and cultural input to state and territory child welfare authorities when Aboriginal and Torres Strait Islander children are reported as abused or neglected or found to need out of home care. This advice should be ideally sought by state authority as soon as a notification is made to enable community support to be provided to the family and the child and prevent placement into non-Aboriginal out of home care wherever possible.

d) **Out of home care:**

• Support for Foster Carers & Kinship Carers- carer recruitment & assessment, training & support for carers (including cultural support), general management of placements.

• Support for Children in Placement- case management, cultural care planning.

• Residential Care- the development and management of all aspects of appropriate alternative residential care for Aboriginal and Torres Strait Islander children.
e) **Community outreach services:**

- Cultural Support – Advocate for and address the cultural needs of Aboriginal and Torres Strait Islander children placed in non-Aboriginal placements, support awareness of cultural needs and provide advice to carers within and outside the ACCA to maintain the child’s connection to family, community and culture. Develop resources and provide support and advice to foster carers managed by the ACCA and placements managed by the ACCA to ensure high quality cultural care planning and the implementation and monitoring of these plans.

- Leaving Care – Provide support to Aboriginal and Torres Strait Islander young people leaving the care system by providing them with or assisting them to obtain relevant skills, knowledge and support networks to assist their transition to independent-living.

f) **Program and policy development:**

- Community awareness and education – Implement strategies aimed at addressing issues that affect the wellbeing of Aboriginal and Torres Strait Islander children and families. Provide resources and educational support to raise community awareness of issues and inform families and communities of what they can do, and where and how to access programs and services within their communities.

- Program review & evaluation – conduct reviews of the organisation and programs to evaluate effectiveness and efficiency, assess outcomes achieved, and determine what is needed to better achieve established goals and objectives.

- Policy and research – Identify practice and policy issues related to Aboriginal and Torres Strait Islander family wellbeing. Facilitate research on a broad range of issues, in partnership with Aboriginal and Torres Strait Islander communities, and develop an evidence base and inform and influence government policy development. Conduct research that respects Aboriginal and Torres Strait Islander values and complies with community cultural and ethical protocols to undertake consultation and information sharing. Identify strategies and policies to ensure and promote the organisation’s cultural capability in servicing Aboriginal and Torres Strait Islander children, families and communities.

- Workforce development and retention – Provide appropriate support to staff to fulfil their role and responsibilities through regular staff meetings and supervision. Encourage staff to undertake training and professional development opportunities. Promote Aboriginal and Torres Strait Islander workforce development, retention, worker self-care and wellbeing, and encourage progression into senior and management roles.

- Strategic planning – Analyse organisational operations and plan future activities and direction. Implement a strategic plan that clearly outlines the organisation’s purpose, values and mission statement, goals and objectives, and action to be taken. In consultation with key stakeholders determine a strategy to review the plan and measure progress.

- Quality assurance – Develop quality assurance processes to ensure the organisational inputs and outputs are in compliance with organisational policy
and legislation. Analyse existing management and practice approaches to justify and determine whether programs, services or resources meet client needs and expectations, and organisational and individual (staff) obligations.

The SNAICC description of an ideal ACCA also addresses areas of concern surrounding the creation of Aboriginal child and family services such as workforce and program development, and quality assurance. It acknowledges these to be prerequisites to ensure such a service is based in best practice as well as to ensure community-control and cultural appropriateness.

All states but neither territory have invested heavily in their own ACCAs and other recognised entities. The experience of the Victorian Aboriginal Child Care Agency (VACCA) is useful to observe, particularly in the area of workforce development. VACCA’s journey has included secondments from the Human Services Department in Victoria and a strong commitment to staff training. Support from non-Aboriginal NGOs through a respectful partnerships program has also assisted VACCA with respect to professional development, with the NGOs reaping the benefit of enhanced cultural understandings. Commitment to an ACCA approach would require an understanding of the complexity of Aboriginal communities in the territory given their cultural and language diversity.

**Recommendation 4.2**

That an Aboriginal Child Care Agency or Agencies be developed in stages, and that such an agency or agencies is funded by Government with a major role in child safety and wellbeing, with consultation to determine how the Aboriginal community should be represented. Alternatively, the agency functions may be developed as part of an existing Aboriginal controlled organisation.

**Urgency:** Immediate to less than 6 months

**Recommendation 4.3**

That there is recognition in the Care and Protection of Children Act of the functions of an Aboriginal agency or agencies or other recognised entities.

**Urgency:** Within 18 months
Establishing an Aboriginal Children and Families Peak body in the Northern Territory

The need for an Aboriginal controlled agency or agencies with a major role in child wellbeing, family wellbeing and child protection has been explained as being a paramount issue. There are many functions it could and should have, but there is risk in initially setting expectations unrealistically high. Such an agency may well find it difficult to limit its focus to its core business given the enormity of the potential tasks it will likely want to take on. It will require mentoring and support, will perhaps need to grow as an arm of an existing Aboriginal controlled NGO, and would benefit from high level secondments from government departments.

A number of submissions to the Board, particularly by NGOs, and including leading national Aboriginal NGOs such as SNAICC and AMSANT, have made a number of suggestions for system based improvements for Aboriginal child and family welfare that would assist the development, mentoring and support of an ACCA in Northern Territory. They recommend the establishment of an Aboriginal Children and Families peak body whose mandate would include:

- Policy and advocacy
- Collaboration
- Development of quality culturally appropriate out of home care
- Support for Aboriginal community controlled health services to work with families
- Provision of an Aboriginal perspective in individual child protection cases.

Such an agency would need formal agreement with government regarding, inter alia:

- information sharing
- evaluation
- accountabilities and outcome measures

As the leading organisation for Aboriginal and Torres Strait Islander child and family welfare agencies, SNAICC articulates its position regarding Aboriginal children and families involved in the child and family welfare system as follows:

A peak body is needed to develop, represent and build capacity of NT Aboriginal community controlled child and family welfare agencies (ACCAs) in the Northern Territory, once funded. Roles would include policy development at the state and agency level, workforce development, state level representation, locally informed policy advice, advocacy to state and federal government.

A peak body with such a comprehensive approach will help to create trust between Aboriginal and Torres Strait Islander communities and the child welfare system. Many of the services suggested in the SNAICC submission were also raised by others.

In 2007, the Australian Institute of Family Studies and SNAICC released a series of research papers on Aboriginal child protection and out of home care identifying best practice in those areas. The papers were developed in consultation with professionals, carers and young people and underlined the need for strengths-based, culturally informed

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144 Submission: SNAICC.
processes of training, assessment and support. Attention is drawn to these papers which provide an excellent overview of the sector\textsuperscript{145}.

**Recommendation 4.4**

That the Northern Territory Government funds the development, establishment and ongoing work of an Aboriginal peak body on child and family safety and wellbeing and child protection. This peak body would support the process of the development of Aboriginal child and family safety and wellbeing and child protection agencies.

Urgency: Within 18 months

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### The Aboriginal Child Placement Principle and its application

The Aboriginal Child Placement Principle (ACPP) guides practice around the placement of Aboriginal children placed outside their families by child protection authorities in Australia. In essence, the principle is that children are placed in a way that recognises the importance of children’s connections with their family, community, place, belonging and cultural identity. This is important for the child but also for the Aboriginal people for whom children represent the future for culture, traditions and language. The principle is particularly significant given previous detrimental policies of assimilation and child removal where Aboriginal identity was considered irrelevant for removed children, or worse, even harmful.

The Commonwealth Government affirmed in 1976 that child welfare, including Aboriginal child welfare, was a state and territory responsibility. Following the development in the USA of an Indian *Child Welfare Act* in 1978 which contained a basic principle for the placement of American Indian children outside their immediate families where necessary, an Aboriginal Child Placement Principle was proposed by the national Council of Social Welfare Ministers in 1979 to guide the adoption and fostering of Aboriginal children. There was discussion between the council and the Secretariat of National Aboriginal and Islander Child Care (SNAICC) around its nature and implementation, and a version of the principle was adopted as a national policy in 1986. A national law reform commission report that same year recommended the principle be adopted on a national basis, however the Commonwealth Government reaffirmed that such matters are a state and territory responsibility\textsuperscript{146}. While eventually all states and territories have incorporated the principle into law in their relevant Act or by regulation, the principle is now endorsed by the Commonwealth of Australian Governments’ National Child Protection Framework, as well as SNAICC.

The Aboriginal Child Placement Principle (ACPP) is incorporated into the Northern Territory *Care and Protection of Children Act 2007*, All Australian mainland states and territories now incorporate the principle into law in their relevant Act or by regulation

\textsuperscript{145} Refer to the Australian Institute of Family Studies (AIFS) papers and booklets that form the series ‘Promising practices in out-of-home care for Aboriginal and Torres Strait islander carers, children and young people’.

and the principle has been endorsed by the Council of Australian Governments’ (COAG) National Child Protection Framework, as well as by SNAICC. Its purpose is to guide practice around the placement of Aboriginal children placed outside their families by child protection authorities in Australia.

The ACPP recognises the importance of connections between children and their family including extended family, their community, their place or land, the significance of their sense of belonging and, maintenance of their cultural identity. The principle is particularly significant given past detrimental policies of assimilation and child removal where Aboriginal identity was considered irrelevant for removed children, or worse, even harmful. The wording of the Aboriginal Child Placement Principle (ACPP) in the Care and Protection of Children Act 2007 in Section 12(3) and (4) states that:

(3) An Aboriginal child should, as far as practicable, be placed with a person in the following order of priority:

(a) a member of the child’s family;
(b) an Aboriginal person in the child’s community in accordance with local community practice;
(c) any other Aboriginal person;
(d) a person who:
   (i) is not an Aboriginal person; but
   (ii) in the CEO’s opinion, is sensitive to the child’s needs and capable of promoting the child’s ongoing affiliation with the culture of the child’s community (and, if possible, ongoing contact with the child’s family).

(4) In addition, an Aboriginal child should, as far as practicable, be placed in close proximity to the child’s family and community.

Later chapters focus on the many challenges to applying the ACPP in the Northern Territory, including:

- High numbers of Aboriginal children in care – with Aboriginal children accounting for almost 80 percent of children in OOHC in the Territory
- High levels of disadvantage diminishes the carer pool – with the current level of disadvantage that Aboriginal people experience, it is a constant challenge to find carers who are able and willing to take on children, especially those with complex needs
- Chronic housing shortage reduces the number of carers – across the Northern Territory there are large numbers of Aboriginal people living in overcrowded housing. Often families living in these homes want to take children but are unable to because of their housing situation
- Cultural practices – where child’s cultural background (skin group or moiety) prevents placement with family members of another group.
SNAICC further adds:

Keeping children connected to family and culture can, however, be a complex and difficult undertaking. Family members may live far apart from each other. This may be because some members were relocated within Australia as part of the Stolen Generations or as part of forced removals to missions, or it may be that people have moved for work or educational reasons. Aboriginal and Torres Strait Islander families have also become complex due to trends apparent within Australian society as a whole, such as increasing levels of single parenthood, divorce and separations, blended families and inter-racial relationships. Any agency aiming to keep children connected to family needs a good knowledge of the complex and fluid networks of families within communities. This knowledge rests with community-based Aboriginal and Torres Strait Islander people.\(^{147}\)

It has become clear to the Inquiry that the policies and practices of NTFC are in line with other jurisdictions. However, the Inquiry heard numerous examples of where, in applying DHF’s own policy, there has been poor decision making and poor practice. Workers appear at times to be making a choice between Section 10 of the *Care and Protection of Children Act* (acting in the best interests of a child) and Section 12 (the ACPP)\(^{148}\). Individual case workers may be interpreting Section 10 of the *Act* to override Section 12, or vice versa.\(^{149}\)

Sections 10 and 12 are not mutually exclusive, nor need one be given a higher priority than another. Rather, consideration of a child’s Aboriginality is one aspect of safety, termed cultural safety\(^{150}\), which must be considered in the event of a child needing to be placed outside their immediate family. Following on from that, the ACPP must not, and when appropriately applied, does not, compromise a child’s safety. The Inquiry contends that safety should be broadened to include all aspects of a child’s expected developmental trajectory, including emotional, physical, cognitive, social, cultural and spiritual development. The principle acknowledges that in some cases it is necessary for a child to be placed with a non-Aboriginal carer.

The ACPP provides a clear process of assessment that should be followed to ensure that a child is removed from their immediate family and cultural life only as a last resort.\(^{151}\)

In the Melville Inquest, Coroner Cavanagh’s findings regarding a belief by NTFC caseworkers that Section 12 of the *Act* justified Aboriginal children in care receiving a lesser standard of care than non Aboriginal children, are outlined in paragraph 257:

> Section 12 of the 2008 Act concerns the placement of Aboriginal children....

A universal view at the inquest was that Aboriginal children in care should not

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148 Submissions: NTCOSS, NAAJA, Sunrise Aboriginal Health Corporation, Tangentyere Council and NTFCAC.

149 Submission: NAAJA.


151 Submission: NTCOSS.
receive a lesser standard of care than non-Aboriginal children in care. However, the application of that basic principle has caused confusion. For example, a number of caseworkers believed that the overcrowding experienced by the Melville children was tolerable because overcrowding was culturally acceptable.152

Many submissions and witnesses contend that the Department used the ACPP to override the child’s best interests, particularly in terms of stability. There are multiple emotional stories of children placed in out of home care being taken from stable non-Aboriginal placements without adequate notice, planning, or preparatory work, especially when a new NTFC worker takes over a case. In such situations, the ACPP is overtly seen to override the child’s need for a stable environment, itself supported by principles of stability and reunification. To do so, in the absence of the required months of planning and preparatory work, is also simply poor practice.

We have been caring for a little girl for 10 months now. We took her on knowing that her time in care was undetermined... we knew that if need be, we would be prepared to look after her permanently, and it seemed that that is what her case worker was thinking too. But then her case worker changed and we were told that they were planning to get her back with family in her mother’s community, as soon as they could find someone who would put their hand up...

We were encouraged to bond with the children we were caring for, and then when that has happened, they take the children away. We know that these are not our children and that most of them do have families to return to, but some decisions seem to be made with something other than the best interests of the child and the carers.153

The story we would like to share has left us grieving, heartbroken and embittered with the department... (after a period in foster care of about two years, with an eye for permanency planning, the child was removed from this placement and returned to family at a remote community at one day’s notice)... Whilst we are grieving, we want the best outcome for [name of child] and in principle support family reunification, however we believe it needs to... be planned so that all parties can have peace with the process.154

The main concern expressed in the submissions above was in the first case, to return the children from non-Aboriginal foster carers to an Aboriginal family and in the other, to the child’s family of origin. These may have been appropriate decisions, however, stability decisions need to be made much earlier, a lack of planning around reunification demonstrates lack of priority accorded to the child’s safety. Stability, and the feelings that goes along with stability, are crucial for a child ‘to feel safe and secure’. This was identified as a fundamental need for children by pioneering work by Abraham Maslow, cited elsewhere.155

It may be that, in some cases, returning a child to an Aboriginal family or community and complying with the intent of the ACPP may be appropriate, that placement with an Aboriginal person would have been appropriate in the first place. The child protection

152  Cavanagh, Melville Inquest.  
153  Submission: Foster carers.  
154  Submission: Confidential.  
service is so stretched and child protection concerns may be so urgent that there may be a tendency to accept a placement when it is available, without delay. In such a circumstance, while expediency is understandable, it inevitably leads to problems and does not obviate the need for comprehensive case planning from the outset. Such a placement might be seen initially as a short term option, however, placement drift is such that they can drag on for much longer than intended until a new case worker comes along and then movement occurs too swiftly. The child protection system is so stretched that it does not enable its workers to do the quality work they should and would like to do.

Other states have practice guides around the ACPP to help child protection professionals make decisions in this complex area. Development of Northern Territory policy and procedures in relation to ACPP is required to suit Northern Territory circumstances and nuances. It must include consideration of other imperatives such as safety, bonding, security and stability, and their impact on a child, as well as physical, cognitive, and social development. This policy framework and practice guidelines should be the basis for the relevant orientation, ongoing professional development, and practice. It should be made available to client families, foster carers, the media and any other interested members of the public.

**Recommendation 4.5**

The Inquiry endorses the Aboriginal Child Placement Principle and recommends that it is interpreted and applied in such a manner that the safety of the child is paramount.

*Urgency: Immediate to less than 6 months*

**Recommendation 4.6**

That in consultation with Aboriginal people, including relevant service providers, Northern Territory Families and Children should publish a comprehensive practice guide around the application of the Aboriginal Child Placement Principle to be made available to all stakeholders.

*Urgency: Within 18 months*