Pathways of Care Longitudinal Study (POCLS)

Restoration from out-of-home care for Aboriginal children — the experiences of children and parents

We acknowledge and honour Aboriginal peoples as the traditional custodians of the lands where we live and work and pay our respects to their elders past, present and emerging. We celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of NSW. We remember the Stolen Generations – Aboriginal and Torres Strait Islander children forcibly removed from their families, communities and culture under past government practices. Aboriginal children and families continue to be over-represented in out-of-home care (OOHC) in NSW. We acknowledge that the over-representation of Aboriginal children in OOHC is the effect of intergenerational trauma.

As the Department of Communities and Justice is in the process of embedding the principles of Indigenous Data Sovereignty (ID-Sov) and Indigenous Data Governance (ID-Gov) Ithis resource may not comply with those principles

Information contained in this publication is based on knowledge and understanding at the time of writing and is subject to change.

Key Messages

Restoration refers to the process and outcome of returning a child to the same parent/ caregiver and home environment from which they were initially removed and placed in out-of-home care (OOHC) (AIHW, 2020).¹ Restoration is the preferred permanency outcome for children in OOHC

¹ The AIHW definition is consistent with the definition used by the authors of the journal article that this Note is based on: 'Restoration (also called reunification in many jurisdictions) is the complex process of developing and implementing plans and actions to safely return children from out-of-home care (OOHC) to their birth parents' (see 2024, Restoring Children From Out-of-Home Care: Insights From an Aboriginal-Led Community Forum).



and has been a priority for the NSW Department of Communities and Justice (DCJ) in recent years. Despite being a major policy focus, the restoration of Aboriginal children² from OOHC is an under-researched area.

This Note presents evidence from the Pathways of Care Longitudinal Study (POCLS) on the rate of restoration of Aboriginal children and discusses the factors associated with successful restoration. It also provides an overview of the experiences and perceptions of parents whose Aboriginal children have been removed and restored, and their children. The Note is intended to be a resource for policy makers and practitioners.

The findings presented in this Note are from a journal article authored by Dr BJ Newton, a proud Wiradjuri woman, and colleagues (2024). They aimed to build the Aboriginal evidence base by analysing the experiences specific to Aboriginal children and their parents in the POCLS.

Summary of Findings

The key findings are:

- Once an Aboriginal child entered OOHC on a final Children's Court care and protection order, restoration to their parent(s) was highly unlikely – only 15.2% of the POCLS sample were restored by Wave 4.3
- A high proportion of Aboriginal children entering OOHC, regardless of their care outcome, had a very small number of substantiated Risk of Significant Harm (ROSH) reports prior to removal, with 29% having just one and 12% having no substantiated ROSH report (see footnote # 10).
- Aboriginal children who entered care at an older age were more likely to be restored.
- Prior to restoration, a higher proportion of Aboriginal children were placed in foster care (51.0%) compared to relative/kinship care (43.9%).
- The Aboriginality of carers did not have an impact on whether the children remained in OOHC or were restored. For restored children, 47.1% of carers identified as Aboriginal.
- Parents of Aboriginal children expressed dissatisfaction with child support agencies and family support services both at the time their child was removed and during the restoration period.
- Parents and children both expressed the importance of being supported to maintain family relationships while in care.

Most importantly, the results show that more support is needed for Aboriginal children and their parents at all stages of the OOHC system—before and at the time of removal, while in OOHC, during the transition to restoration and post-restoration.

These findings support the recent legislative changes introduced by the Family is Culture (FIC) Law, effective from November 2023. The law introduced the concept of 'active efforts' at each stage of DCJ's work with Aboriginal children and families to keep Aboriginal children with their family and provide appropriate support to the children placed in OOHC so that they can be restored as soon as possible.

² In the POCLS, the term Aboriginal is used to include both Aboriginal and Torres Strait Islander people.

³ Wave 4 interviews were conducted in 2017 and 2018, 7-8 years after the child entered OOHC for the first time between May 2010-October 2011

Key recommendations to prevent removal:



- Wherever practical (i.e., where the safety of the child is not immediately compromised), that Aboriginal parents/ family are given clear information that child removal is imminent if they do not address the concerns of DCJ.
- Provide timely and appropriate intensive family casework to address the concerns and prevent the child's removal.

Removal:



- Around 40% of Aboriginal children entered care following just one (29%) or no (12%) substantiated ROSH reports – similar percentages for Aboriginal and non-Aboriginal children.
- Aboriginal children entering care under the age of 2 years were the least likely to be restored.
- Some Aboriginal parents reported that they were not offered any supports prior to removal, and many were not aware of services to prevent their child removal.

During OOHC:



- Both Aboriginal children and parents reported that they
 would like to have more information about and contact with
 their family during OOHC.
- Of the Aboriginal children in OOHC at the Wave 4 interview (n=59) over half reported that they wanted to see more of their birth families, particularly their parents.

Restoration:



- Of the 1,018 Aboriginal children in the POCLS on final Children's Court care and protection orders, 15.2% (n=155) were restored by Wave 4.
- The average time in OOHC for children restored was nearly 2.5 years.

Post-restoration:



- Just under 50% of the parents reported that they did not want or receive any caseworker support or services postrestoration.
- 50% of the parents stated to have received help from caseworkers.
- A few parents reported they asked for help but did not receive any support.

Restoration of Aboriginal children from OOHC: policy context and factors associated with restoration

Policy context and reform timeline in NSW

In recent years Australian jurisdictions have implemented varying policy and legislative changes that prioritise permanency orders for children in OOHC, with restoration being the preferred outcome for children in OOHC in all Australian jurisdictions.

In 2014, the NSW government amended the *Children and Young Persons (Care and Protection) Act* 1998 (NSW) (the Care Act) as part of the Safe Home for Life reforms and enacted the Permanent Placement Principles (PPP). The amendments established guidance on children's placements in the following preferred order: restoration, guardianship orders, OOHC open adoption and long-term parental responsibility order to the Minister. For Aboriginal and Torres Strait Islander children, the preferred order of placement is restoration/preservation, guardianship, parental responsibility to the Minister and then OOHC open adoption. The PPPs are consistent with the Aboriginal and Torres Strait Islander Child Placement Principles (ATSICPP) outlined in Section 12 A of the Care Act⁴.

In September 2016, the NSW Government commissioned the <u>Family is Culture (FIC), an Independent Review of Aboriginal Children and young People in OOHC in NSW,</u> to examine the disproportionate and increasing number of Aboriginal children in OOHC in NSW. The independent review focused on the experiences of 1,144 Aboriginal children who entered OOHC during 2015-16.

In February 2019, further amendments to the *Care Act* and the *Adoption Act 2000 (NSW)* were enacted. Section 83 of the amended Act requires DCJ to consider whether there is a 'realistic possibility of restoration' within a period not exceeding 24 months, and if not, to make arrangements for another long-term legal order such as guardianship or OOHC open adoption.

Later in the same year (November 2019), the <u>FIC Report</u> was released which made 126 recommendations about how the NSW Government delivers services and over 3,000 recommendations specific Aboriginal children and young people.⁵ In this report, it was argued that the 24-month period to consider permanency places unrealistic time limits on Aboriginal parents struggling to navigate a range of interpersonal, social and bureaucratic systems in order to meet the requirements to have their children returned (Davis 2019). Accordingly, Section 79 (10) of the *Care Act* was further amended to allow for court orders to be made longer than 24 months if special circumstances existed.

⁴ The <u>ATSICPP</u> were developed in response to the trauma experienced by individuals, families and communities from government policies that involved the widespread removal of Aboriginal and Torres Strait Islander children from their families. The five elements of ATSICPP are Prevention, Partnership, Placement, Participation and Connection.

⁵ For more information, please visit the <u>Family is Culture webpage</u>

On 7 July 2020, the NSW Government provided a <u>formal response</u> to the FIC Report and committed to respond to the needs of Aboriginal children, families and communities. Of the 126 recommendations, 24 were considered as part of a focused statutory review of the *Care Act*.

In 2022, DCJ worked with key stakeholders to progress recommendations requiring changes to the Care Act and other legislation as detailed in the <u>Family is Culture Legislative</u> <u>Recommendations Consultations Findings Report</u>. This report outlined the NSW Government's approach to legislative reforms, categorising them into three groups: proposals for immediate implementation, those needing further consultation, and areas where current settings were deemed adequate.

On 25 November 2022, the Children and Young persons (Care and Protection) <u>Amendment</u> (<u>Family is Culture</u>) <u>Review Bill 2022</u> became law and marks the commencement of the first phase of these reforms. This phase includes several immediate changes, although it is noted that recommendation 121 regarding OOHC open adoption was not endorsed by the NSW Government.

The remaining changes to FIC legislation were approved by the NSW parliament in October 2023 with 'active efforts' commencing on 15 November 2023 to create an equitable, accountable and responsive child protection system. The active efforts standard states 'caseworkers are required to take meaningful steps to actively support families to address identified risks that are threatening the separation of a child from their family. It is the service system's responsibility to assist families to overcome barriers affecting their access to services' (ACMP -Rules and Practice Guidance, page 57). The provisions of active efforts are discussed in detail later in this Note.

Factors associated with restoration: brief summary of the literature

The FIC Report found that 17.5% of the 1,318 Aboriginal children taken into care between 2015-2016 had been restored and argued that this could have been much higher if DCJ identified the possibility of restoration in more cases and undertook appropriate casework towards that goal with more families (Davis 2019: 346; 427). The review cited unclear restoration processes, unrealistic restoration goals, a lack of appropriate support services and potential legal barriers to families achieving restoration. These findings demonstrated:

- the importance of casework decisions for successful restoration
- the role that caseworkers and other service providers and agencies play in these processes and outcomes
- the immediate need to increase knowledge and understanding about decisions regarding care pathways
- the extent of parental and Aboriginal community involvement in decisions about their children.

Thus, caseworkers and the decision-making structures within the child protection system are key to improving restoration work and outcomes for Aboriginal children and families. Wulczyn and Chen (2019) examined the POCLS data over waves 1-2 (3 years after the POCLS children

entered OOHC) to determine the rates at which infants and toddlers in the POCLS cohort leave OOHC. The study found that Aboriginal children in this sample left OOHC at a slower rate than non-Aboriginal children, although this difference was not statistically significant. However, previous research across Australia has also found Aboriginal children remain longer in OOHC, particularly for children who have experienced more serious forms of maltreatment (Fernandez 1999; Fernandez & Delfabbro 2010; Zhou & Chilvers 2010 cited in Delfabbro 2018).

An Australian review of the literature undertaken for the POCLS showed that children were more likely to be restored to their birth families if they were in OOHC for the short-term (i.e., restored within a year of removal), and if the child had frequent contact with their parents while in OOHC. The review also found that factors associated with children not being restored included parental substance misuse, poverty, and if the child had been placed in relative/kinship care (Walsh et al., 2018).

Little empirical evidence exists exploring parental perceptions of the barriers and facilitators to restoration for children in OOHC, and even less specific to Aboriginal children and families. These few studies found that parents faced a range of challenges following the removal of their children and generally found child protection workers and systems unhelpful and at times detrimental to achieving restoration (AbSec 2020, Newton 2020, Ivec et al., 2012). Specific concerns included poor family contact environments and arrangement; a lack of key supports prior to removal or following removal to support restoration; bureaucratic processes; authoritarian approaches; and inflexible systems that left families feeling powerless and overwhelmed.



How is restoration of children measured in the POCLS?

As discussed earlier, this Note is based on a research project by Newton and colleagues (2024) which used both quantitative and qualitative analysis of the POCLS data.

In the POCLS, restoration can be identified using both the DCJ administrative dataset and the interview dataset. In the OOHC administrative dataset, restoration is identified using a derived variable based on the child's exit reason from OOHC⁶. In the interview dataset restoration is identified if a parent (birth mother or father) has participated in an interview as the child's current caregiver.

The sample for the quantitative analysis includes 1,018 Aboriginal children who were removed from their parents for the first time between May 2010 and October 2011 and on final Children's Court care and protection orders ('final orders cohort') by 30 April 2013. The DCJ administrative data (child protection and OOHC) was used to map the trajectory of these children through care and compare the circumstances of children who had been restored to their parents with those who had not been restored. To accurately measure the number of children restored in the POCLS, DCJ administrative data was used⁷.

The qualitative data was collected from participants in the POCLS interview cohort (n=1,789) who participated in at least one of the four waves of face-to-face interviews 8 including interviews with parents of Aboriginal children who had been restored and their caseworker (note, the caseworker survey is a cross-sectional collection). The survey questions included in Newton and colleagues' analyses included those asking parents about: their experiences of removal and level of communication; family contact/time and support during the transition to restoration; and post-restoration support. Children's (7-17 years old) perspectives of care, contact and restoration were also examined. For example, children were asked how adults could help those children who were unable to live with their parents. At Wave 4, children also responded to questions about: who they want to have more contact with, and less contact with; and what else they want to change about contact with their birth family.

Interpretation of the results presented below should consider the factors associated with the over-representation of Aboriginal children in child protection and OOHC including the legacy of past policies of forced removal and the intergenerational effects of previous forced separations from family and culture. This erosion of community and familial capacity over time needs to be considered in any reform efforts as it continues to have a profoundly adverse effect on child development. The implications for policy and practice should highlight strengths, develop Aboriginal-led solutions, connection to culture and the cultural complexity of families. This Note presents findings that did not aim to address that complexity in its findings.

⁶ When a child exits OOHC to birth parents, caseworkers record this event in the DCJ data base (ChildStory) as 'restored to parents' in the 'Placement Exit Reason' field.

⁷ Note, there are some complexities in the administrative data as some children are placed with parents prior to restoration and most spend some time living with parents before being officially restored. Some children return to care for a short time after a trial restoration and some children re-enter care due to failed restoration.

⁸ Consent was obtained from the caregivers of 1,789 children in the final orders cohort to administer the POCLS survey via face-to-face interviews. To date there have been six waves of data collection at approximately 18–24 month intervals.

Summary of key findings

Care outcomes of the POCLS final orders cohort

There were 1,018 Aboriginal children in the POCLS final orders cohort. Of these children, 53.8% (n=548) remained in OOHC at Wave 4 of which 13.2% (n=134) exited and re-entered care. Of the children who exited OOHC and did not re-enter, 15.2% (n=155) were restored to their parents, 13.9% (n=142) moved to guardianship orders, and 17.0% (n=173) left care for other reasons such as an interstate move or aging out of the care system (Figure 1). The average time in OOHC for all children restored was approximately 2.5 years.

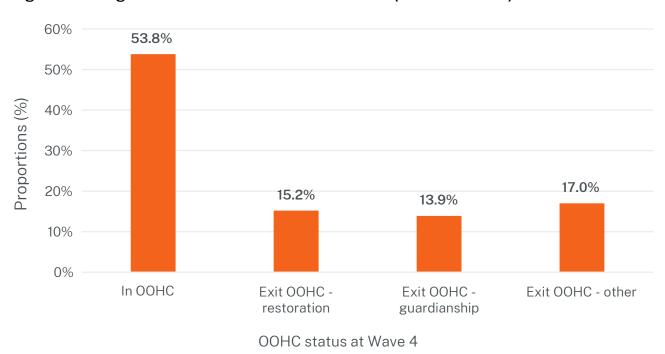


Figure 1: Aboriginal children's OOHC status at Wave 4 (at 30 June 2019)

OOHC entries and exits

The findings indicate age at entry into care is significantly associated with restoration, with children who entered care at an older age more likely to be restored. Aboriginality of caregiver, number and type of ROSH reports, placement type, number of placements and care periods are not associated with restoration. Some of the key findings are:

Prior to entering OOHC, a high proportion of Aboriginal children received eight or more ROSH reports. The predominant type of ROSH report⁹ involved mixed maltreatment, followed by neglect and physical abuse. The proportion of children who received ROSH reports for mixed maltreatment was similar (around 48%) for all groups of children, that is, children in care, restored, on guardianship orders and other exit reasons.

⁹ The predominant type considers the child maltreatment issues (physical, sexual, neglect, psychological and child risk issues) and determines the issue with the highest percentage that is above 50%. Where the highest percentage is tied or the percentage is <50%, the predominant issue is described as mixed.

- Around 40% of Aboriginal children were placed in care following just one (n=29.2%) or no (n=11.8%) substantiated ROSH reports.¹⁰ For children who were restored, this rate was 38.7%.
- In terms of OOHC outcomes, Aboriginal children who entered care under 2 years of age were more likely to remain in care (53.8%) or exit to guardianship orders (54.2%) than to be restored (33.5%). Conversely, children aged 7 years and older at the time of entry to care were more likely to be restored (34.2%) than to remain in care (9.5%).
- About half of the Aboriginal children in OOHC, were living in foster care placements. For those children who were restored, 43.9% were living with relative or kinship carers prior to restoration.
- Just under half of Aboriginal children were cared for by an Aboriginal carer. For restored children, 47.1% of carers were identified as Aboriginal compared to 47.3% of those who remained in OOHC.

Experiences and perspectives of Aboriginal children, parents and their caseworkers

This section discusses findings from the qualitative analysis¹¹ which include experiences and perceptions of parents, children 7-17 years old, and caseworkers in the POCLS.

In the POCLS, the child's current caregiver is interviewed which means the only opportunity for birth parents to participate in the Study is once the child has been restored. Thus, parents whose children are still in OOHC are not eligible to participate.

Of the 155 Aboriginal children restored to their parents in the final orders cohort, a quarter (n=39) had parents who participated in at least one interview across waves 2–4. For 32 children their mother participated in an interview; and for 7 children their father participated in an interview.

Parents' perspectives

Communication, engagement and support prior to removal

Overall, parents of Aboriginal children who were restored indicated that they would have liked more engagement and support from child protection agencies prior to their children being removed.

Parents reported that they should have been given a chance to address DCJ's concerns prior to their child's removal, and that there should have been more communication and planning between caseworkers and the family to promote family preservation and reduce the likelihood of removal. Some parents also reported that DCJ did not offer them any supports prior to removal, and many parents were unaware of available services to prevent their child's removal.

¹⁰ For context, the proportions are similar for Aboriginal and non-Aboriginal children. This is historical data and not a reflection on current practice or recording on ChildStory. All of the children entered OOHC between May 2010 and October 2011, so prior to ChildStory.

¹¹ To protect the identity of participants, the qualitative data was reported in line with the guidelines for reporting the POCLS qualitative data, which is adapted from the APA (2019) Publication Manual (7th edn).

Many parents described child protection caseworkers as being 'sneaky' regarding the removal of their child and cited examples, such as case workers separating them from their child in hospitals, and child protection offices, and distracting them while the removal was carried out. Parents recalled the family being very distressed:

They were very sneaky how they did it. We were at the DoCS¹² office and they took me into a separate room and told me they were taking the children. The caseworker just threw the paperwork in front of me and just said they were taking them. I could hear my children distressed in the other room and I wasn't allowed to see them. I was so distressed. [Parent]

Quality family time while children are in care and during transition to restoration

Several parents commented that they would have liked more time (both face-to-face and phone calls) with their children while they were in OOHC. Parents said they would have liked to know more about their children's day-to-day lives while in OOHC.

The location of family time was raised as an important issue by a few parents who described the difficulties of trying to enjoy a visit with their child in a DCJ child protection office which is very formal and sterile environment.

Parents also commented that they did not feel supported to have quality time with their children, and this was reflected in the contact environment and the attitudes of caseworkers and carers, as one parent recounts:

I was full time breastfeeding my child at the time they were in care. I had asked for [my breastmilk] to be given to my child and not to be given formula under any conditions....When I changed my baby's nappy at contact visits I could see that my child had been fed formula. The visitations should have been longer, they were 3 hours per time, I would have like at least half a day so I could bond with my newborn. The carer should have met my needs as well as their own, they were late to visits quite often and some of the notes they would send me would be advice on how to parent my own child. They didn't respect me as the child's mother. I would have like to have not been in a dull depressing office, somewhere like a park or cafe outside. [Parent]

Several parents commented that the transition to having their child restored could have been better supported if they had been allowed longer or more frequent unsupervised contact visits, particularly in the family home:

More contact before restoration would of [sic] been better. The children came to the family home for supervised visits and they were not allowed to leave the room we were in. They wanted to go to their bedrooms and outside to see the animals but we all had to stay together. [Parent]

¹² DoCS is one of the previous names for NSW Department of Communities and Justice (DCJ), the statutory child protection agency.

Information about children while in care

Parents were asked about the services that supported them in the lead up to restoration and once their child returned home. Some parents admitted feeling lost when their child returned home because they were provided little information or insights into their child's life while in OOHC:

What would have been helpful was a better understanding by DOCS about what was going on. I had no one tell me what my child had been doing or what had gone on with my baby while they were in care. I was given a note by one of the carers which was helpful, but that was pretty much it. [Parent]

Parents indicated they would have liked more support and advice on raising their child, about their child's behaviours, and more contact with their caseworker.

Tailored support to meet the family's needs post-restoration

The POCLS found that some parents indicated they would have liked more contact with their caseworker post-restoration, support and advice on raising their child. A few parents commented that they had asked for help following restoration and not received it.

The need for services from child protection caseworkers following restoration was roughly divided, with just less than half of parents commenting that they did not receive any support from caseworkers following restoration, nor did they want it. This is contrasted by the other half of parents stating that they felt their caseworker helped them following restoration. This help ranged from feeling supported through visits and providing advice, to practical support such as housing, counselling, and intensive parenting programs:

When the child returned, they had foot and mouth which needed medication. As I had no money I approached FACS¹³ for assistance and they were very helpful. [Parent]

I asked for help with housing and in 3 days I had a letter. [Parent]

Parents indicated that they would have liked additional financial support while they adjusted to providing for their child and accessed parenting payments. This would have helped them to address their child's immediate material needs. A couple of parents also reported that they needed ongoing respite care following restoration, but they said that they were not able to access it. Several parents commented that the only contact they had with a caseworker following restoration was a phone call six months after restoration.

¹³ FACS is one of the previous names for NSW Department of Communities and Justice (DCJ), the statutory child protection agency.

Children's perspectives

Staying connected to their family until restoration

At Wave 4, Aboriginal children 7-17 years old who were unable to live with their parents were asked about how adults could help them. More than a third of the 96 Aboriginal children who responded to this question wanted to be better supported to have more quality time with their parents, including regular sleepovers and holidays. Many said they wanted to live back with their parents:

Help the child stay connected to the birth parents. Let them contact their birth parents when they want to. [Child]

Give the parents another chance with the child. Have overnight stays and more visits. [Child]

Support, like help them through their tough times. Maybe remind them who their birth parents are and help them keep in contact with their birth family. [Child]

Furthermore, 59 Aboriginal children who were still in OOHC provided responses at Wave 4 about who they want to have more contact with and less contact with. Results showed that well over half of children expressed that they wanted to see more of their birth families, particularly their parents. Only a few said they wanted to see less of their family, and some were happy with their current contact arrangements.

Being placed with siblings and loving carers

Several children talked about the importance of being placed with their siblings or having regular contact with siblings.

The other main thing that children wanted was for their carers to comfort them and make them feel welcome and loved. Some children said it was important for carers to talk to children about what is going on, and to try to understand how they are feeling. One child commented that they would like to transition slowly to new placements, rather than being dropped off and left.

Caseworkers' perspectives

Caseworkers from DCJ and non-government organisations (including Aboriginal community-controlled organisations) participated in an online POCLS survey between waves 2 and 3 (2013-2016). They provided responses for more than 200 POCLS children offering information about the child's placement and case plan, including restoration goals for Aboriginal children.

Caseworkers reported that the limitations in their role impacted on their capacity to provide quality and holistic support to children and families. This was particularly frustrating for one caseworker who identified that restoration was a possible outcome for a child, but systemic limitations hindered progress:

Restoration is being spoken about but casework intervention towards this process has been minimal due to staff levels and staff unavailability. [Caseworker]

Another caseworker expressed frustration at working hard to engage the family for a year, and then the case was transferred to a new caseworker who 'failed to follow through and explore restoration'. Several caseworkers reported that the case was or had been unallocated to a worker and no contact plan was in place or being implemented. Others commented that the long distances parents must travel to attend contact with their children makes it very difficult for them to attend at all or to do so consistently. Caseworkers also gave insights into situations where the child's placement may be compromising the child's relationship with their parents, and thus restoration.

Overall, the caseworkers indicated that DCJ policies, resource constraints, and lack of time to engage with the child's parents limited their ability to support parents while children were in OOHC and following restoration.



Implications of the research to improve child outcomes

Based on their findings, Newton and colleagues made the following recommendations to prevent removal:

- Wherever practical (i.e., where the safety of the child is not immediately compromised), that Aboriginal parents/ family are given clear information that child removal is imminent if they do not address the concerns of DCJ.
- Provide timely and appropriate intensive family casework to address the concerns and prevent the child's removal.

Improved policy and practice strategies to support the restoration of Aboriginal children

Restoration practice starts from the moment a child enters care. It involves returning children to their families once safety concerns have been addressed which can pose significant challenges and involve adjustments for the child, siblings, parents and their families. Best practice involves building a supportive and mutually trusted partnership between caseworkers, children, parents and their families to achieve safety, influence change and restore relationships from the time the child is placed into OOHC.

This section discusses the key policy and practice strategies to support restoration of Aboriginal children in-line with the recent legislative amendment on 'active efforts' upholding the <u>NSW Practice Framework</u> and the <u>Aboriginal Case Management Policy (ACMP)</u>¹⁴ which sits alongside the Permanency Case Management Policy. The strategies are informed by <u>the Aboriginal Case Management Rules and Practice Guidance</u> which provides an operational framework for Aboriginal-led and culturally embedded¹⁵ case management practice to safeguard the best interests of Aboriginal children.

Aboriginal Case Management Policy (ACMP)

The ACMP introduces four core elements to improve practice with Aboriginal children and families:

1. Aboriginal family-led decision making (AFLDM)

The *Care Act* (section 11 & 12) provides legislative guidance to ensure the participation of Aboriginal families, extended families, communities and representative organisations in decision making and actions affecting them, including being consulted in the care and

¹⁴ The ACMP was developed by AbSec in collaboration with DCJ, through an extensive engagement process involving Aboriginal communities and key stakeholders. The ACMP applies across the entire support continuum, from Aboriginal Community Response (Early Intervention) and Aboriginal Family Strengthening (Family Preservation) to Aboriginal Child Safety (OOHC).

¹⁵ <u>Culturally embedded approaches</u> ensure that Aboriginal cultural perspectives are intrinsic to all elements of service delivery, as opposed to being an additional element applied to a program designed for non-Aboriginal children.

protection of their children. This is reflected in the AFLDM¹⁶—a series of processes that caseworkers engage early in the continuum of support acknowledging the importance of Aboriginal participation in making informed decisions in the best interest of Aboriginal children.

2. Active efforts standard

The active efforts standard requires caseworkers to take meaningful steps to actively support families to address identified risks that are threatening the separation of a child from their family. It is the service system's responsibility to assist families to overcome barriers affecting their access to services.

3. Aboriginal family-led assessments (AFLA)

The AFLA aims to safeguard children, uphold family integrity, and facilitate restoration, embodying a respectful and supportive framework for casework practice by applying a 'cultural lens' over DCJ's current assessment processes¹⁷. The AFLA enhances the way caseworkers assess the child's safety and risk ensuring that the assessments are culturally informed, and family centered. AFLA approach encompasses a comprehensive understanding of family dynamics, recognising the effects of historical and intergenerational trauma, and the importance of connections to family, community, culture, and Country. It respects Aboriginal child-rearing practices and considers the family's perspectives on their values, concerns, strengths, needs, and aspirations. AFLA is useful to support the family to identify a range of practical, educational, therapeutic and advocacy supports, assessing each family's strengths and needs to formulate case plan goals and strategies. The outcomes of the assessments are corroborated through AFLDM processes, fostering transparency and empowering families to actively participate with the provisions of support.

4. Aboriginal community-controlled mechanisms (ACCMs)

The ACCMs consist of a formal structure established by local Aboriginal communities through their own processes to represent the interests of their community and ACCMs are directly accountable to local Aboriginal communities. The ACCMs are being supported through AbSec and are at different stages of development across the state. The ACCMs are not responsible for making decisions about individual children, but they work with DCJ to ensure Aboriginal children and families are supported and cared for in accordance with the principles of self-determination, the Aboriginal and Torres Strait Islander Child Placement Principles and the core principles of the ACMP.

¹⁶ The AFLDM process is not a form of Alternate Dispute Resolution (ADR), however it has some similarities to ADR processes in that Family Group Conferencing (FGC) also provides opportunities for the family to participate in decision making. See the <u>Factsheet</u> for more information.

¹⁷ Structured Decision Making (SDM) is a suite of assessment tools that was used by DCJ until recently to guide decision making about a child or young person's current safety and risk of future harm. This suite of tools is comprised of the Safety Assessment, Risk Assessment, Risk Reassessment, Restoration Assessment, and the Screening and Response Priority Tools. See <u>ACMP Rules and Practice Guidance</u>, pp 58. From 12 September 2024, these tools have been replaced by new culturally sensitive assessment approaches.

¹⁸ Self-determination for Aboriginal people means that Aboriginal communities are able to take charge of their own lives and make important decisions about their future. This includes making decisions about Aboriginal children and young people in the statutory child protection system and/or who are entering or at risk of entering OOHC. It also means making decisions and having input into the design of policies and program.

Restoration assessment

The restoration assessment (using the SDM assessment tool) presumes that the goal for any child entering OOHC is restoration. This remains the case unless it is determined, through use of the restoration assessment, that this goal should change. All restoration work with Aboriginal children and families' needs to ensure that at every step, AFLA, AFLDM, active efforts and ACCMs are being followed. For Aboriginal children, Aboriginal consultation¹⁹ is required before the SDM Restoration Assessment Tool is used. Caseworkers are required to share the restoration assessment with the parents and families so that everyone understands the risk and dangers that harmed their child and resulted in removal and that, this will serve as the baseline for the restoration assessment. Furthermore, timeframes to restoration need to be flexible so that restoration can be a goal at any time while a child is in OOHC to give children and parents the time they need to address the risk of harm that led to removal.

Note that on 12 September 2024, all SDM tools including the restoration assessment tool were replaced by an Aboriginal community-led new approach to assessment. This is discussed later in this Note.

Cultural Care Plan

An integral part of care planning for Aboriginal children is cultural planning 20 through Cultural Care Plans and Cultural Support Plans. Caseworkers need to initiate cultural planning as soon as possible by gathering relevant information on the cultural identity of the child, their family, community and Country, as well as identifying key community people in the child's life. Cultural Plans are also developed using the processes of AFLDM and include information on how the cultural needs of the child will be met while in OOHC. If the child is not case managed by an ACCO, caseworkers can engage ACCOs early in the development and endorsement of cultural planning to ensure a range of culturally responsive and community-based supports for the child and family are part of the Cultural Care Plan.

OOHC Case Plan

The OOHC Case Plan is completed through the AFLDM processes jointly with the child, their parents, families/kin, and community members within 30 days of a child entering care. To achieve this, caseworkers need to make active efforts to engage with Aboriginal parents, families and communities including ACCOs, and support their full participation in setting the case plan goals and identifying practical steps required for the family to achieve those goals, including any support to action the OOHC Case Plan.

¹⁹ Aboriginal consultation is an exchange or two-way flow of information. It is an important method that empowers Aboriginal families and communities to help make decisions on matters that affect the care and protection of their children. Caseworkers are required to engage and consult with the child, and their family, extended family, local Aboriginal community and support network including ACCOs. Internally at DCJ, caseworkers can also seek consultation through a number of channels including local Aboriginal staff, district-based Aboriginal reference group, the State Aboriginal Reference Group (ARG) and Safeguarding Decision-Making Panels. The Aboriginal Culture in Practice Unit in Office of the Senior Practitioner is responsible to support practitioners in this regard.

²⁰ Cultural care plan outlines critical information on the cultural identity of the child, their family, community and Country, as well as identifying key community people in the child's life. The cultural support plan builds on the cultural care plan, providing evidence and actions for how a child's cultural connections and relationships will be maintained and strengthened in an active, ongoing way.

Family Action Plan for Change (FAPFC)

An OOHC Family Action Plan for Change²¹ (FAPFC) is developed in partnership with the child, parents, families/ kin, community and support network including ACCMs. The plan identifies family goals and sets out actions, supports, responsibilities, timeframes, and the child's experiences of the changes needed to achieve restoration. Importantly, in the FAPFC caseworkers need to document how family time and other connection opportunities will be used to meet goals that support restoration.

Post-restoration support

DCJ's current policy published in August 2023 includes post-restoration support that directs caseworkers to visit the child and parent at least once per week for the first month, and after that, in accordance with the needs of the child and parents and as set out in their FAPFC. If needed, they make referrals for ongoing support to maintain continuing connections between the child, extended family, kin, and people who are important to the child including support services or workers.

In March 2024, in response to the body of research about the link between poverty and unsuccessful restorations, DCJ changed policy to make it easier for caseworkers to purchase the goods and services that families need to make restoration successful. These ranged from purchasing household appliances to providing child and family therapy.

Strategies to support children

Child-centred casework

Children should be included at every stage of the restoration process through age-appropriate casework practices including: transparent conversations; clear information about why they were removed; the care plan in the short-term and longer term; family time arrangements and Life Story Work. A purposeful and trusting relationship should be built, and one-to-one conversations should occur regularly to ensure the child can ask questions, raise concerns and be involved in decisions about them.

Participation in decision making and activities

Regular age-appropriate caseworker communication with the child can build trust and relationships so that the child feels safe to participate in the decision making and restoration planning. Such relationships help the children to express their worries; communicate about important people in their lives and how they want to remain connected; and how those people could be involved in AFLDM processes for restoration. An important consideration in this regard is for the caseworkers to take steps to engage the child in culturally rich activities that support restoration, including cultural activities determined by AFLDM and Life Story Work.

²¹ For a child with a case plan goal of restoration, a FAPFC is developed within 30 days after a child has entered OOHC or within 30 days from when the case plan goal is changed to 'assess restoration' for children who have been in long term care. The Family Action Plan is reviewed every 90 days. For Aboriginal children who have been in long term care, DCJ uses FAPFC instead of the SDM Restoration tool for restoration assessment.

Casework Continuity

To build strong relationships and trust with Aboriginal children and families, it is important for casework managers to maintain caseworkers continuity when possible. To achieve this, consider the following:

- Planning to support the long-term allocation of caseworkers to specific cases, recognising the importance of continuity in achieving successful restoration outcomes.
- Utilise online tools and platforms to facilitate caseworker permanence, allowing caseworkers to stay connected and manage cases effectively, even if they are not physically present.
- Thorough handovers to maintain the momentum of restoration efforts.

Connection to family and culture

Finding Family

Connection to culture through family and kin ensures cultural safety and wellbeing for Aboriginal children. Approaches such as Family Finding, family network mapping and Aboriginal-led <u>Family Group Conferencing</u> can keep children connected to their family, community and support network; achieve emotional permanency and a sense of felt security and belonging.

Family time

Family time allows the child and their family/ kin to build and maintain their relationship, supports cultural connections, and positive socio-emotional development. The child's relationship with their parents, and their parenting skills, is part of restoration assessments and casework. Caseworkers need to consider:

- partnering with the parents, family and kin to plan family time arrangements, such as regularity, activities and venues where the family are comfortable
- · how family and kin can support the parents during family time
- whether supervision is needed and who is best placed to provide this
- how family time can be gradually increased in preparation for a child going home.

DCJ caseworkers are mandated to assess family time reports every 30 days for children who have entered care, as well as supporting parents during family time to work towards their FAPFC goals for restoration. Caseworkers also organise family time so that children spend time with their parents doing everyday parent-child activities.

Strategies to support parents and families

Cultural consideration across all stages of engagement with Aboriginal parents



Caseworkers working with Aboriginal parents and families need to incorporate the principles of AFLA, that is, use a cultural lens at all times by considering the following practice.

Culturally informed perspective

Parenting beliefs and child rearing practices, healing practices and discipline vary between cultures. Cultural competency and consideration while working with Aboriginal parents and family will allow caseworkers to understand child-parent behaviours and practices that are culturally acceptable and not place the child at risk of harm. It is important for caseworkers to be aware and mindful of their own 'cultural biases', which are likely to influence their judgement — both consciously and unconsciously.

Dignity driven practice

Child protection caseworkers must be culturally competent and understand the history of the Stolen Generations, during which Aboriginal children were forcibly removed from their families, communities and culture under past government assimilation policies. Aboriginal children and families continue to be over-represented in OOHC in NSW. It is crucial for caseworkers to recognise that this over-representation is a result of intergenerational trauma. Past government policies have led to a deep-seated fear and mistrust of child protection caseworkers within Aboriginal families and communities. *Dignity driven practice*²² (endorsed by the NSW Practice

²² Dignity driven practice asks caseworkers to identify acts of resistance and to support families to view themselves as being strong and adaptive in the face of suffering. It asks caseworkers to think about the use of language; consider power dynamics and to give a child and/or their family every opportunity to fully participate and make decisions about their lives. For more information read the <u>Dignity Driven Practice guide</u>

Framework) is fundamental to culturally appropriate casework practice to support restoration and provide culturally embedded²³ healing and trauma informed therapeutic supports.

Parent advocacy

A funded advocacy group for parents, led and controlled by Aboriginal communities to provide support, mentoring and information to parents who have experienced child removal and restoration would fill a gap in service provision. Currently advocacy groups are funded for children (CREATE) and carers (MyForeverFamily, Carer Support Line by AbSec), but not for parents.

Strategies to support carers

Carers can play an important role in supporting the child's restoration. The goal of restoration is important to discuss at carer recruitment and for caseworkers to continue to work with carers to support restoration by:

- acknowledging their sense of loss
- involving them in planning family time
- · creating opportunities for carer and the parents to work together
- providing them with appropriate information about the progress of the restoration
- supporting them to understand the importance of maintaining a child's cultural permanency and to connect with the child's cultural community
- encourage an ongoing relationship between the child, parents and previous carers if the relationship was positive to provide support, mentoring, respite care, etc. post-restoration.

Strategies to support caseworkers

Support for Aboriginal Culture in Practice

It is clear that a multifaceted approach is necessary, one that considers the diverse factors impacting Aboriginal families and actively works towards enhancing the cultural competence of those involve in casework practice. The Aboriginal Culture in Practice Unit (ACiP) in the Office of the Senior Practitioner (OSP) focuses on improving culturally appropriate approaches to decision-making, restoration, family preservation, permanency and quality assurance relating to Aboriginal child protection practice.

DCJ acknowledges the importance of working collaboratively with Aboriginal families to ensure culturally safe practices. DCJ also emphasises the significance of self-determination and aims to develop a culturally competent workforce to better serve Aboriginal children, families and communities. However, factors such as location, whether rural or urban, can significantly affect the availability and type of services accessible to Aboriginal families.

²³ Culturally embedded supports and services are those designed and delivered by Aboriginal people and organisations and aligned to the values and perspectives of Aboriginal communities. Culturally embedded approaches ensure that Aboriginal cultural perspectives are intrinsic to all elements of service delivery, as opposed to being an additional element applied to a non-Aboriginal program.

As discussed earlier, the cultural capability of the practitioners and leadership is also pivotal, as it influences how they partner with Aboriginal families and understand their unique cultural perspectives and needs. A strong cultural capability within the practitioners and leadership is essential to overcome biases and ensure that decisions are made in the best interest of Aboriginal children and families, keeping them safe and at home.

Where to from here?

Policy and practice improvements underway

Renewing focus on restoration for all children

DCJ renewed its focus on restoration of all children in OOHC from an operations and systems perspective. A restoration campaign was launched in early 2023 and a restoration practice mandate and practice advice topic were published in August 2023.

Permanency Learning Hub

With a membership of over 2,500 practitioners and leaders, the <u>Permanency Support Program Learning Hub</u> (PSP Learning Hub) has delivered 185 online and face-to-face training sessions, plus coaching sessions, Communities of Practice, fact sheets, podcasts and recorded webinars. Practice leaders and specialists can now participate in Leader's Tool kits through the Learning Hub. Via webinars, masterclasses, coaching and Communities of Practice, leaders explore what, why, when and how of achieving permanency for children and young people. The PSP Learning Hub is led by an Aboriginal organisation called Curijo.

Implementation of 'active efforts'

To support implementation, the ACMP has been developed in consultation with Aboriginal communities and peak groups. Links to training and resources on how to apply the four ACMP core elements (AFLDM, AFLA, ACCMs and the Active Efforts Standard) have been made available to the practitioners.

Most of the changes have already been reflected in the NSW Practice Framework. However, embedding changes into practice can take time. A 60-minute e-learning session has been made mandatory for all DCJ caseworkers to explain the key challenges and what they mean to casework practice with Aboriginal children and families. Furthermore, to support implementation:

- Rules and practice guidance are being developed in partnership with AbSec and Aboriginal Legal Services
- ChildStory is implementing enhancements to enable the caseworkers to record changes to the casework practice.

Aboriginal Restoration Initiative

A proposed new Aboriginal restoration initiative (taskforce) is in the planning phase, with a view to establishment and implementation in mid-2026. The initiative is directly informed by the Bring Them Home, Keep Them Home research led by Dr Newton, of which the POCLS is a part.

The restoration initiative proposes an Aboriginal community-led program collaboration with DCJ, where restoration reviews and casework support are delivered by restoration practitioners within ACCOs across NSW. The restoration initiative is proposed to be overseen by AbSec and an Aboriginal Restoration Governance Group and aims to provide opportunities for the reconnection and restoration for all Aboriginal children on long-term orders in NSW.

Changes to risk assessment in statutory child protection

In early 2024, the DCJ Secretary announced changes to the way DCJ assess risks. This was based on the feedback that the SDM Assessment tool does not make equitable decisions about Aboriginal children and families. The changes will allow DCJ to further champion the voice of the child and the importance of families having input in making decisions.

An interim approach to assessing risk has been implemented from 12 September 2024. At the same time, DCJ has begun to create the new approach to assessment in statutory child protection with formal partnerships with AbSec and the Aboriginal Legal Service (NSW/ACT). DCJ will also work closely with Aboriginal community, peaks, stakeholders, and experts within DCJ.

Furthermore, in August 2024, the OSP launched the Professional Judgement in Assessment Practice Learning Program to support practitioners to put the new interim assessment approach into practice with children and families.

Safeguarding Decision Making for Aboriginal Children (SDMAC) Panels

DCJ acknowledges that there is an urgent need for improved cultural capability in the workforce, and reduced bias in decision making and practice, to address the ongoing trauma and negative experiences Aboriginal children and families have with the current child protection system.

The introduction of Safeguarding Decision-Making for Aboriginal Children (SDMAC) Panels in all districts by DCJ in October 2023 marked a significant step towards enhancing the decision-making processes concerning Aboriginal children. Developed by the ACiP Unit (OSP), the SDMAC Panels' operating model was informed by extensive consultations with Aboriginal staff, reference groups, and practice leaders. These panels play a crucial role in ensuring that critical decisions regarding the safety, removal, and placement of Aboriginal children are made with a comprehensive understanding of cultural sensitivities and statutory requirements. The Integrity and Validation Model, established by the ACiP Unit, serves as a quality assurance mechanism, ensuring the frequency, type, and consistency of the SDMAC Panel meetings, as well as the cultural considerations influencing practice and decision making. This model is pivotal in evaluating whether the Panels are operating uniformly across the state and adhering to their Terms of Reference.

Furthermore, the ACiP Unit's initiative to conduct another round of Yarning Circles in 2025 exemplifies a continued commitment to incorporating the insights of Aboriginal staff into the refinement of the SDMAC Panels, thereby fostering better outcomes for Aboriginal children and families.

Investment in the community-controlled sector

DCJ is committed to assisting ACCOs by providing the support they need to grow their services and be sustainable into the future. This commitment is a key aspect of Priority Reform 2 under the National Agreement on Closing the Gap, which focuses on building and strengthening the community-controlled sector to deliver culturally appropriate and effective services for Aboriginal communities.

This reform is not just a DCJ policy objective; it's a fundamental shift towards empowering Aboriginal communities to be self-determined and take the lead in shaping their own futures. By investing in ACCOs, DCJ aims to drive meaningful change across communities.

Key elements of this investment include:24

- Enhancing the capabilities of ACCOs to deliver high-quality services.
- Establishing a predominantly Aboriginal workforce to ensure cultural competence and community connection.
- Providing consistent and adequate funding tailored to the needs of these organisations.
- Strengthening governance structures through support from peak bodies governed by Aboriginal people.

The investment aims to empower Aboriginal communities by recognising their right to selfdetermination and leveraging their expertise in delivering services that achieve better outcomes for their people.

Conclusion

Newton and colleagues (2024) provide new evidence on the challenges that persist for children, parents and caseworkers following the removal of Aboriginal children and systems that can hinder caseworkers capacity to deliver services effectively to Aboriginal families prior to removal, during OOHC and post restoration.

The NSW Government has made efforts to address these issues through different initiatives and the broader OOHC reform agenda which aim to empower Aboriginal communities to develop local solutions to systemic issues. Investment in Aboriginal led programs, and evaluations, are crucial for addressing the findings of BJ Newton and colleagues' analysis of the POCLS data.

²⁴ Please see the <u>Closing the Gap: Priority Reform 2</u> for more information for more information

Policy and practice guides and further reading/viewing

- National Agreement on Closing the Gap
- Family is Culture legislative recommendations discussion paper
- Children and Young Persons (Care and Protection) Amendment (Family is Culture) Bill 2022
- An interim approach to assessing child protection -what we need to know
- Priority Reform two -building the community-controlled sector

Acronyms

Aboriginal and Torres Strait Islander Child Placement Principles	ATSICPP
Aboriginal Case Management Policy	ACMP
Aboriginal family-led decision making	AFLDM
Aboriginal family-led assessments	AFLA
Aboriginal community-controlled mechanisms	ACCM
Aboriginal Community Controlled Organisations	ACCOs
DCJ's Office of the Senior Practitioner, Aboriginal Culture in Practice Unit	ACiP
Family Action Plan for Change	FAPFC
Family Is Culture independent review	FIC
Safeguarding Decision-Making for Aboriginal Children Panels	SDMAC Panels
Structured Decision Making	SDM

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Pathways of Care Longitudinal Study

The Pathways of Care Longitudinal Study (POCLS) is the first large-scale prospective longitudinal study of children and young people in out-of-home care (OOHC) in Australia. The study collects detailed information about the life course development of children who enter OOHC and the factors that influence their safety, permanency and wellbeing. The POCLS links data on children's child protection backgrounds, OOHC placements, health, education and offending held by multiple government agencies; and matches it to first-hand accounts from children, caregivers, caseworkers and teachers. The population cohort is a census of all children who entered OOHC for the first time in NSW over an 18-month period between May 2010 and October 2011 (n = 4,126). A subset of those children who went on to receive final Children's Court care and protection orders by April 2013 (2,828) were eligible to participate in the study. Information about the study and publications can be found on the POCLS webpage.

The POCLS acknowledges and honours Aboriginal people as our First Peoples of NSW and is committed to working with the DCJ Aboriginal Outcomes team to ensure that Aboriginal children, young people, families and communities are supported and empowered to improve their life outcomes. The DCJ recognises the importance of Indigenous Data Sovereignty and Governance (IDS & IDG) in the design, collection, analysis, dissemination and management of all data related to Aboriginal Australians. The POCLS will continue to collaborate with Aboriginal Peoples and will apply the DCJ research governance principles once developed.

The POCLS data asset will be used to improve how services and supports are designed and delivered in partnership with the policy and program areas to improve the outcomes for children and young people who experience OOHC, the support provided to caregivers and families, and the professional development of staff.

This Evidence to Action Note was prepared by the POCLS team at DCJ and the report authors with input and endorsement from the Evidence to Action Working Group and the POCLS Aboriginal Governance Panel. This note is intended to be a resource for policy makers and senior practitioners.

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Study design

NSW Department of Communities and Justice - Family and Community Services Insights, Analysis and Research (FACSIAR); Australian Institute of Family Studies; Sax Institute, Professor Judy Cashmore, University of Sydney; Professor Paul Delfabbro, University of Adelaide; Professor Ilan Katz, University of NSW; Dr Fred Wulczyn, University of Chicago.

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The University of NSW Human Research Ethics Committee (approval number

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All the POCLS publications are available on the POCLS webpage.

Pathways of Care Longitudinal Study (POCLS)

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