



# Aboriginal Case Management Policy

## ■ RULES AND PRACTICE GUIDANCE

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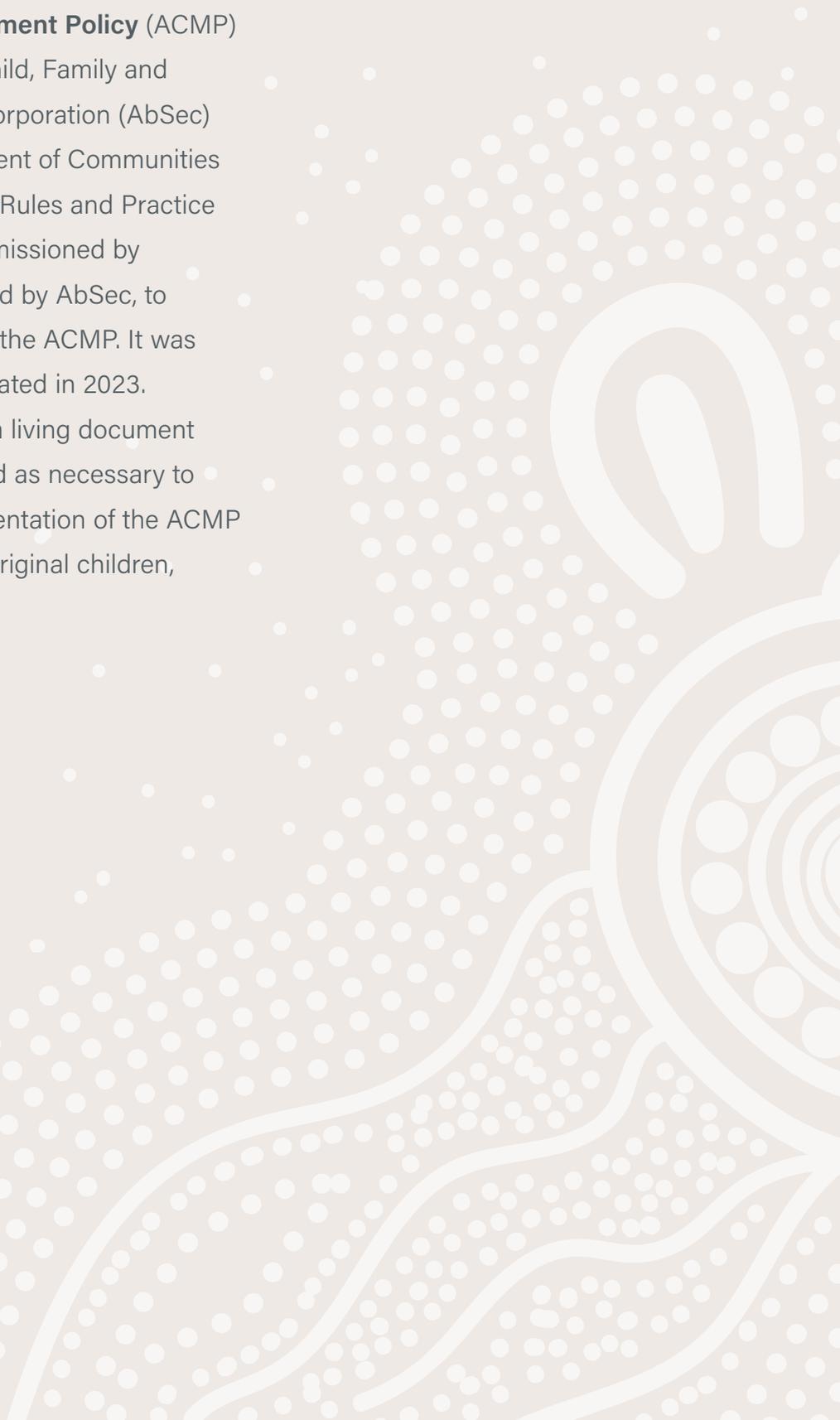
Strengthening Aboriginal families and delivering better outcomes for Aboriginal children and young people

MARCH 2023

The **Aboriginal Case Management Policy** (ACMP)

was developed by the NSW Child, Family and Community Peak Aboriginal Corporation (AbSec) and published by the Department of Communities and Justice (DCJ) in 2018. This Rules and Practice Guidance document was commissioned by DCJ, and developed and drafted by AbSec, to support the implementation of the ACMP. It was first published in 2019 and updated in 2023.

This document is intended as a living document and will continue to be updated as necessary to effectively support the implementation of the ACMP and improve outcomes for Aboriginal children, families and communities.



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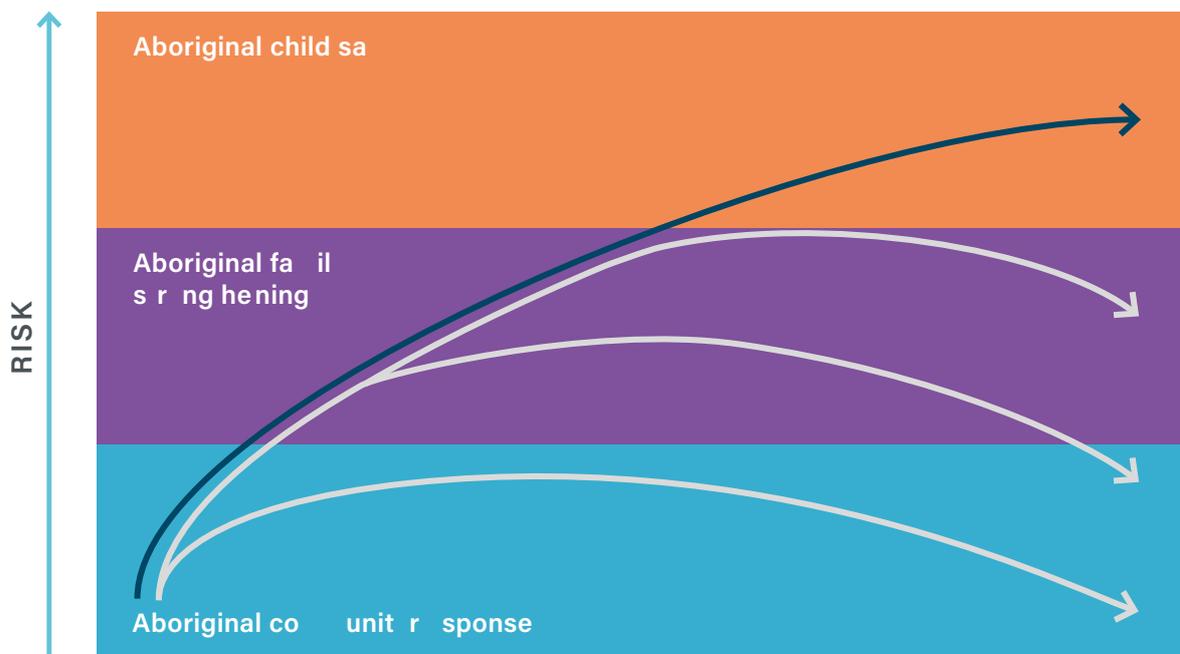


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# Introduction

The *Aboriginal Case Management Policy Rules and Practice Guidance: Strengthening Aboriginal families, delivering outcomes for Aboriginal children and young people* comprises three interconnected segments spanning the continuum of support, including universal services, family preservation, restoration, out-of-home care (OOHC) and after care. These rules and practice guidance outline to practitioners the expectations, roles and responsibilities, and operating functions that are aligned to the three key segments:

1. Aboriginal community response
2. Aboriginal family strengthening
3. Aboriginal child safety



## Identification of Aboriginal children and families

The Aboriginal Case Management Policy, and Rules and Practice Guidance applies to all Aboriginal children and young people and their families.

Practitioners apply robust processes to identify Aboriginal children and families as early as possible in their engagement in the continuum of support, allowing the relevant safeguards to be applied.

It is inappropriate to identify a family as not-Aboriginal as a default position. Rather, practitioners should actively seek to identify the cultural background of all families. It is not unusual for Aboriginal families to be reluctant to self-identify to statutory child protection systems, given their justified mistrust of



these systems and the treatment of Aboriginal peoples (see [DCJ Apology to the Aboriginal people of NSW](#)). Practitioners are encouraged to take a curious stance to actively identify every family's cultural background, engaging them in a robust, iterative process to unpack each family's unique history and heritage.

## Aboriginal participation in decision making

Aboriginal communities have a collective interest in the safety, welfare and wellbeing of their children and young people. This is reflected in the *Children and Young Persons (Care and Protection) Act 1998* (the Care Act) through sections 11 and 12. Section 12 explicitly acknowledges the requirement that Aboriginal children, families, and extended families are given the opportunity, by DCJ, to be involved in decision making that impacts on their children. This includes Aboriginal communities and representative organisations.

The ACMP includes [Aboriginal Family-led Decision Making \(AFLDM\)](#), which is a series of processes that are ideally engaged early in the continuum of support ensuring participation of families and communities in decisions and actions affecting them.

DCJ actively supports the participation of other persons or agencies in decision making, when consent is provided (section 254(1) (a) of the Care Act), or in connection with the administration of the Care Act (section 254(1) (b)), including section 12 of the Care Act (as described above). This includes:

- determining whether a child is at risk of significant harm
- assessing whether or not a child is Aboriginal
- assessing suitable family placement options for a child in line with the Aboriginal child placement principles
- for another reason in connection with the administration or execution of the Care Act (section 254).

The participation of Aboriginal families, extended families, communities and representative organisations is important to making informed decisions in the best interests of Aboriginal children and young people, and reflects the interests of Aboriginal families and communities in the safety, welfare and wellbeing of Aboriginal children.

These Rules and Practice Guidance operationalise the participation of Aboriginal children, families, kin and communities (through appropriate representative mechanisms) consistent with the Care Act. DCJ and Service Providers will:

- ensure the views of Aboriginal children and young people, family and extended family as well as community and representative organisations are sought and documented
- acknowledge the interest of Aboriginal families and communities in the safety, welfare and wellbeing of their children, and genuinely engage with families and their communities in all decisions and interventions affecting Aboriginal children
- support family and community participation in decision making through Aboriginal family-led decision making processes and other similar approaches
- respect local Aboriginal community controlled decision making structures to enable Aboriginal families and communities to have oversight of service systems, processes and procedures concerning the safety, wellbeing and care of their children.



## ACMP Key Enablers

### Aboriginal Family-led Decision Making (AFLDM)

The Care Act (section 12) provides legislative guidance to ensuring participation of Aboriginal families and communities in decision making and actions affecting them, including being consulted in the care and protection of their children. Consistent with the principle of self-determination (section 11), these systems are designed and administered by Aboriginal communities through their own decision making structures.

Practitioners engage these processes early in the continuum of support and choose a method that is suitable to the family noting that the core elements of Aboriginal family-led decision making include:

#### Aboriginal community facilitator

The facilitator is responsible for creating a culturally safe environment which is based on transparency, inclusiveness, honesty and respectful communication. The Aboriginal community facilitator offers knowledge of Aboriginal communities and families, is trusted within the community and is culturally informed to ensure that a holistic response is provided to address family problems. The Aboriginal community facilitator supports family members to engage with the process, and advocates on behalf of Aboriginal families and communities to ensure that appropriate processes are followed and the rights of Aboriginal children, families and communities are respected.

#### Family as key decision making partners

The Aboriginal community facilitator is an independent person and partners with the family members to prepare them for their role in the decision making process. The family is the primary decision maker, identifying their goals and priorities and their plan of action to achieve them. This requires that families are properly informed about the nature of any concerns about the safety, welfare and wellbeing of their children. These processes can also help to identify and map family/kin, create advocates for the family, and form partnerships with communities.

#### Family make their own 'family plans'

Families are given the opportunity to establish their own family plans, without statutory intervention and other non-family members present. Family members are given time to work through the information and to formulate their own responses and plans. This also applies in matters that require a permanency outcome. This enables the family to apply their own knowledge and expertise that are consistent with their cultural decision making practices, to take their time and take active steps in establishing a plan of action, practitioners support the family to strengthen their informal support networks and engage with formal support services to help achieve their goals in a sustainable way. Active efforts to overcome barriers to service access are undertaken, supporting families to achieve their goals and keep children safe.

#### Follow up efforts

Aboriginal family-led decision making is not a one-off process, but reflects a commitment to create a network of care for Aboriginal children and their families, drawing on both informal and formal supports. Practitioners reconvene meetings to review the implementation of case plans, consider new information



or recent developments and identify any new actions to be included or resources required. Active efforts are made to ensure that families are adequately supported to achieve the identified goals, strengthen family functioning and keeping children safe.

## Active Efforts Standard

The active efforts standard requires practitioners to take meaningful steps to actively support families to address identified risks that are threatening the separation of a child from their family. These guidelines provide some of the actions that practitioners demonstrate and document when applying the Active effort practice standard. It is the service system's responsibility to assist families to overcome barriers affecting their access to services.

## Aboriginal Family-led Assessments (AFLA)

Aboriginal family-led assessment (AFLA) is the process of applying a 'cultural lens' over current assessment processes to improve how caseworkers assess safety, risk, needs and strengths. Aboriginal family led assessment sets the foundation for Aboriginal case planning.

AFLA helps with meaningful engagement and consultation to gather information from the perspectives of the child, family and community. It supports development of case plans using Aboriginal family-led decision making processes (AFLDM).

AFLA is used at key points in the Aboriginal Family Strengthening and Child Safety continuum of support.

Applying a cultural lens over the assessment process means a family-centred approach to understanding the child and their family context.

The use of cultural knowledge, standards and values provides this context to Aboriginal children, young people, families and community.

Applying a cultural lens is critical in assessing a child's safety, welfare and wellbeing. This includes the child's ongoing care and protection. It assists caseworkers to better assess safety, risk, needs and strengths of children and their families and make informed decisions about the support required. Importantly, it is used to prevent harm, preserve families and achieve restoration.

## Aboriginal Community Controlled Mechanisms (ACCM)

Aboriginal Community Controlled Mechanisms consist of a formal structure established by local Aboriginal communities through their own processes to represent the interests of their community. They are directly accountable to Aboriginal communities.

ACCMs are not responsible for making decisions about individual children. They ensure local casework practice processes and the care a child receives are culturally appropriate and meets the best interests of child and their family. ACCMs are a way Aboriginal communities can oversee case management processes for Aboriginal children and families within their area.

ACCMs use local Aboriginal standards, expectations and experiences to ensure case management processes are designed to care for and protect Aboriginal children and young people.



ACCMs work with DCJ to ensure Aboriginal children and families are supported and cared for in accordance with the principles of self-determination, Aboriginal child placement principles and core principles of the ACMP.

Aboriginal community controlled mechanisms operate on the following principles:

- culturally appropriate approaches are the foundations for the care and support provided to Aboriginal children and young people, and their families
- Aboriginal understandings of health and wellbeing
- holistic understandings of a child or young person's circumstance
- strengths-based, family centred and trauma-informed approaches are applied in practice to achieve best interests for the child
- open and collaborative relationships are established among family, communities, service providers and the department
- each community is unique and processes vary

**The role of an Aboriginal community controlled mechanism is** to use the cultural expertise of trusted community members to ensure local Aboriginal expectations, views and practices are included across the continuum of support. This is in line with the principle of self-determination. This engagement promotes greater transparency and accountability to communities about decisions regarding case management and the provision of support to their children and young people.

ACCMs operate across the entire care and support continuum from Community Response (early intervention), Aboriginal Family Strengthening (family preservation) to Aboriginal Child Safety (out-of-home care).

ACCMs provide opportunities to strengthen casework practice and systems at the local level by:

- identifying how prevention and early intervention services can be better utilised to support Aboriginal children and families at risk
- identifying, raising awareness of, and addressing systemic practice and process issues that are detrimental to the care and support of Aboriginal children and young people
- reviewing local case planning and management processes to ensure that the ACMP is actively applied
- working with DCJ to identify options with parents that can bring about sustainable, culturally appropriate restoration opportunities
- responding to issues or concerns identified by the community
- building and maintaining positive and respectful working relationships with communities when dealing with complex child protection issues
- ensuring culture is embedded in discussions and ongoing dialogue with DCJ and service providers.

# 1. Aboriginal community response (Tier 1)

Aboriginal community response refers to a universal support system that seeks to strengthen networks of care and optimise community supports so that children can thrive. This includes providing support to reduce sources of stress, support responsive relationships and strengthen core life skills<sup>1</sup>, delivered through a culturally embedded service system that is designed and delivered by Aboriginal people. They are the primary supports offered within an inclusive, child safe community.

Aboriginal community response services are embedded within communities, are accessible to families and are responsive to the needs of Aboriginal families. Services are expected to build and maintain strong partnerships as part of a local integrated service system providing holistic, culturally embedded supports. This includes strong relationships with Aboriginal communities and local Aboriginal governance processes.

Services within Aboriginal community response are offered on a voluntary basis with the free, prior and informed consent of the family or young person following a request for assistance. They also provide a safety net for step-down support from more intensive supports.

Aboriginal community response provides a 'no wrong door' entry point approach (often through self-referral by the family) that encompasses a broad range of supports for Aboriginal families and communities, including, but not limited to:

- community education, community based programs and community engagement awareness activities
- soft entry points that enable the identification of vulnerable families who may need referrals to other child and family services
- family supports and youth related services, or other similar activities that do not include case management, for example counselling, parenting programs, mentoring, peer support programs and education and skills training
- programs supporting expectant or new parents and their babies
- transition to early learning supports and services including supported playgroups
- universal health care and immunisation
- child and family services provided to Aboriginal children and families who are experiencing challenges and/or may be at risk
- community engagement and development (including capacity development) in the specific area of child safety and child/adolescent development and growth

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<sup>1</sup> Centre on the Developing Child at Harvard University (2017) Three principles to improve outcomes for children and families <http://www.developingchild@harvard.edu>



## Key roles and responsibilities

Ideally, the service that is the first point of contact for families or the child and young person takes on a lead role in service coordination as a key worker. This is to support a 'no wrong door' approach for families.

It is acknowledged that not all funded services will be delivering activities in such a way that would support the key worker model as described above. In this case, services should still aim to provide support at the first point of contact and make referrals to other services as appropriate.

The following list describes the roles and responsibilities of the key worker, noting that other practitioners delivering support under the Aboriginal community response will also have some of these responsibilities:

- engages with the family or young person and community
- supports the family or young person to identify their own needs, priorities and goals
- coordinates universal services for culturally responsive and community based supports in a timely and accessible manner
- provides referrals to other child and family supports
- establishes links with other service providers to promote service inclusion and integration
- records relevant data about entry points, actions and outcomes achieved (as per program specifications), enabling oversight by DCJ and Aboriginal Community Controlled Mechanisms
- seeks consent to share information to enable effective service coordination and integration.

## Entry Point

Aboriginal community response services are provided to children, young people and families through self-referral and outreach activities or from more intensive services as part of a step-down response.

Referral processes are:

- flexible to allow children, young people and families to access different levels of support when they are needed
- established to support children, young people and families without the need for a prior child protection report
- streamlined to work with existing referral processes within Aboriginal communities so that families can be referred to the right services and supports before crisis occurs and to prevent escalation.

Practitioners are expected to support an integrated response in partnership with other local services as needed.



## Active efforts

Services are responsible to provide active assistance to families and communities, supporting them to overcome barriers in accessing community supports and services by an active and flexible approach to improving service visibility and accessibility. For example:

- establishing soft entry points in informal, familiar and culturally safe environments
- engaging directly with communities about the nature and design of services
- using outreach and promotional measures that are place-based in communities
- providing practical supports such as transport and child care
- utilising existing relationships and networks within the community to strengthen access.

## 2. Aboriginal family strengthening (Tier 2)

Aboriginal family strengthening provides targeted child, youth and family supports that are oriented towards addressing identified risks and preserving families, preventing the need for more intrusive responses. Aboriginal family strengthening spans low intensity family supports through to intensive family based services, with flexibility to respond to family needs. The focus on addressing identified risks, building the capacity of parents and families, and strengthening family functioning, means that Aboriginal family strengthening supports are also critical for the safe and timely restoration or preservation of Aboriginal children with families.

Aboriginal family strengthening approaches seek to build the capacity of key adults in children's lives through active skills building, service provision, and the development of both formal and informal networks which enable families and communities to shape a safer, more successful developmental context for Aboriginal children and young people. Preservation and restoration services use community-led and evidence-informed approaches.

Aboriginal family strengthening encompasses a broad range of supports and interventions focused on strengthening families and ensuring child safety and wellbeing, including, but not limited to:

- Early intervention family capacity building activities that encompass case management, under the Targeted Earlier Intervention (TEI) and Family Connect and Support (FCS) programs
- Brighter Futures and Youth Hope
- Multi-Systemic Therapy – Child Abuse and Neglect (MST-CAN®)
- Functional Family Therapy – Child Welfare (FFT-CW®)
- Aboriginal Intensive Family Based Services
- intensive family services and intensive family programs
- PSP Family Preservation.

### Key roles and responsibilities

A practitioner is assigned by the service provider to:

- engage collaboratively with Aboriginal families, taking a whole-of-family approach that understands family/kin and community relationships
- provide comprehensive information and referral advice to families experiencing crisis, matching families to the right culturally responsive supports and services in a timely manner
- assess family strengths, risks, and challenges in a holistic way
- provide case coordination, actively supporting families to access required services
- record relevant data about entry point, assessment and actions, and outcomes achieved, enabling oversight by DCJ and Aboriginal Community Controlled Mechanisms
- support the family or young person to develop their own support plan.



## A note on early intervention case management

The core enablers described below, e.g. Aboriginal family-led decision making, apply to early intervention services that deliver components of case management. In the context of early intervention, families accessing case management may not have had contact with the statutory system, therefore some of the elements described below may not strictly apply.

### Entry point

DCJ refers families for Aboriginal family strengthening services after an assessment is completed by DCJ (see 'Safety and risk assessment') where the child is assessed as being at risk of significant harm (ROSH) and active supports are needed to strengthen families and address risks so that the child can safely remain at home.

DCJ and a service provider will jointly determine services required and where possible refer the family to an Aboriginal service provider. Services may also be engaged by:

- a service provider seeking that can provide brokerage and step-down supports
- a service provider within Tier 1 Aboriginal community response seeking higher intensity family supports to complement other service delivery
- a family who has initiated a self-referral requiring higher intensity family supports.

### Safety and risk assessment

DCJ is responsible for conducting an assessment to determine whether the child or young person has been harmed or is at risk of significant harm. DCJ does this by using the Safety, risk and risk reassessment (SARA)<sup>2</sup> to assess a child or young person's immediate safety and the risk they may experience abuse or neglect again in the future by an adult in their household.

A Family Action Plan for Change (case plan) is developed with the goal of 'family preservation' when the outcome of SARA determines that a child is 'in need of care and protection' but can safely remain at home with supports.

Active efforts are made to engage with Aboriginal families and communities and support their participation in these processes in order to make valid assessments of risk and safety with respect to the best interests of their children. Such efforts are to include Aboriginal family-led decision making processes and are clearly evidenced by DCJ practitioners and other relevant service providers.

Aboriginal family-led decision making processes continue to provide active supports, identifying and addressing safety concerns with the family. DCJ practitioners:

- make active efforts to engage with Aboriginal communities through an [Aboriginal Consultation](#) process before carrying out the SARA. This includes:
  - » identifying the nature of the risk/concerns, family strengths and supports

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<sup>2</sup> SARA is a set of Structured Decision Making® tools that are used alongside the professional judgement of DCJ practitioners and is the primary child protection assessment used by DCJ.



- » discussion of possible actions and alternatives
- » identification of family networks
- document reasons if Aboriginal consultation is unable to occur due to immediate safety issues
- record relevant data about number of assessments completed using/not using Aboriginal Family Led Assessment, enabling oversight by Aboriginal Community Controlled Mechanisms
- visit the child, their parents and family/kin to carry out the SARA; where possible with an Aboriginal practitioner or Aboriginal advocate
- verify that the child's cultural status has been accurately recorded
- make diligent efforts in contacting family/kin and community members to inform decision making of the safety assessment as well as continue with family finding processes.

## Key steps

- DCJ visits a child, their parents and family/kin to carry out an assessment and incorporates the principles of [Aboriginal Family Led Assessments](#) to identify and clarify the concerns related to the assessment
- A safety assessment is completed with the family during the first face-to-face contact and recorded in Child Story within two days of the visit.  
Children are assessed as either being 'safe', 'safe with plan', or 'unsafe' (Note: if unsafe see 'Section 3 – Aboriginal child safety')
- A risk assessment is completed within 30 days of the safety assessment being completed. A risk assessment helps DCJ to assess the risk that a child may experience abuse or neglect in future in the home where they live, with risk level outcomes of 'low', 'medium', 'high' or 'very high'.
- A Family Action Plan for Change (case plan) is developed when a child is determined to be 'in need of care and protection' but can safely remain at home with supports such as casework or referrals to services.  
A decision that a child or young person is in need of care and protection is made if there is a safety decision of 'safe with plan' or 'unsafe' or a risk level outcome of 'high' or 'very high'.
- A risk re-assessment occurs not more than 90 days (or sooner if there is new information that would affect assessment of risk) after the completion of the initial Family Action Plan for Change (case plan) and every 90 days thereafter. Risk reassessment helps DCJ to re-assess the risk to a child following the parents and family/ kin's participation in case planning and work towards the child's case plan goal.  
DCJ ceases risk reassessment when the re-assessed risk is low or medium and where there are no unresolved dangers
- DCJ may carry out a review safety assessment, if new information is received that would change the initial safety decision
- DCJ completes a closing safety assessment if a safety plan is put in place, or when closing DCJ involvement with the child and their family.

When completing a SARA and making determinations about the safety and risk of Aboriginal children and young people, families and communities are actively supported to participate in decision making.



DCJ and service providers have a responsibility to work together in providing services to children and families, sharing relevant information to ensure valid assessments and support active efforts in addressing assessed safety and risk concerns.

## 1. Aboriginal family-led assessments (AFLA)

Prompt assessment that is open and transparent is critical to engaging and working with Aboriginal families in ways that they view as relevant and helpful. Practitioners use assessment models sensitively to ensure assessments are valid, and prioritise culturally valid models where available.

Practitioners use curiosity to work from the family's perspective to understand the child and their family context, assess the child's safety and risk, and determine the family's needs and strengths. Aboriginal family-led assessments are used 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.

An assessment of family needs and strengths includes:

- domains of parent and child functioning, from a culturally informed perspective
- recognition of the impacts of past trauma, including family and intergenerational trauma
- concept of family and connections to family, community, culture and Country
- recognition of family structures and environments including Aboriginal child rearing practices
- family members' views about what they value, their worries, their strengths, their needs and future aspirations.

Outcomes of assessments are validated within Aboriginal family-led decision making processes, engaging transparently with families about all elements of the assessment and supporting families to participate in this process with independent supports as needed. Importantly, Aboriginal family-led assessments are used to prevent harm, preserve families and achieve restoration.

## 2. Aboriginal family-led decision making

Aboriginal family-led decision making is a series of processes that are engaged early in the continuum of support, ensuring participation of families and communities in decisions and actions affecting them. Aboriginal case planning occurs through Aboriginal family-led decision making processes.

Practitioners respect that families are experts in their own lives and partner with the whole family to enable meaningful participation in assessment, case planning and review, including identification of goals and priorities, existing and required supports, and action plans to achieve goals and address risks.

### Aboriginal case planning – family strengthening

A case plan is developed through Aboriginal family-led decision making processes jointly with the child, their parent/s, family/kin and the service provider with case management:

- within 15 days of a risk assessment with the risk outcome of 'high' or 'very high' risk or
- within 45 days of the initial safety assessment



Where there has been a community based referral (no assessment pending), a case plan is also developed through Aboriginal family-led decision making within 45 days of the initial Aboriginal family-led assessment for other community based referrals.

In partnering with the family, practitioners:

- clearly communicate the worries and risk of significant harm concerns and support the family to develop a case plan through Aboriginal family-led decision making processes that are culturally safe and promote the full participation of the whole family, support the inclusion of Aboriginal Elders and/or community representatives who have a significant relationship with the child
- identify additional goals as part of a holistic assessment, recognising that the family may have their own set of goals they want to achieve
- identify practical steps required for the family to achieve the case plan goals, including any supports to put plans into action

DCJ and service providers work together as a collaborative support team, engaging parent/s, family/kin and community members in the planning process to ensure a child's safety, wellbeing, permanency and cultural continuity, focusing on family strength to prevent escalation. The key components of case planning within this segment focus on family-led and participatory practice.

### 3. Active efforts

DCJ practitioners and service providers take meaningful and all possible steps to actively support families to address risks to keep a child with their family.

They respond promptly when risks are identified, taking the opportunity to provide tailored supports to address risks and strengthen families, preventing further escalation. Families are provided with access to family supports, aligned to the identified need, at the first point of contact and may be offered these supports more than once.

They take all possible steps to preserve families and prevent child removal through actively engaging families and providing tailored, culturally embedded services and supports to strengthen families and address risks

They engage local communities to build on their protective and preventive practices, and utilise Aboriginal family-led decision making processes to enable formal and informal support to strengthen families.

### Permanency support services

DCJ practitioner determines which permanency support services a child, their parents and family/kin receive based on:

- the outcome of the SARA, and any risk re-assessment
- the case plan goal and action plan as identified by the family through Aboriginal family-led decision making processes
- appropriate Aboriginal consultation



Where the safety decision is 'safe' or 'safe with plan', and DCJ remains involved with the family, active efforts support and strengthen families towards the case plan goal of family preservation. Service providers coordinate the provision of Aboriginal family strengthening supports to address identified risks and enable children to remain safely at home. This includes building capacity and strengthening formal and informal supports. DCJ and the service provider closely monitor progress toward achieving the child's case plan goal in partnership with families through Aboriginal family-led decision making processes. Aboriginal Community Controlled Mechanisms provide community oversight of decision-making processes.

Permanency coordinators facilitate linkages to Aboriginal family strengthening supports and assist practitioners to access culturally embedded services and specialist supports such as Aboriginal Intensive Family Based Services, Multi-Systemic Therapy, Functional Family Therapy, specialist drug rehabilitation and community services that strengthen family functioning. Permanency coordinators work collaboratively with service providers to coordinate and tailor packages and services to prevent the need for more intrusive responses

Where there is a transfer of case management responsibility, it occurs through existing referral pathways (Refer to 'Other case management functions – case management transfer')

## Information exchange

Chapter 16A allows DCJ and service providers (who are prescribed bodies) to exchange information that relates to a child's or young person's safety, welfare or wellbeing whether or not:

- the child is known to DCJ or the service provider
- the person to whom the information relates gives consent to the information

Chapter 16A also requires prescribed bodies to take reasonable steps to coordinate decision making and the delivery of services regarding children and young people.

To maximise Aboriginal family strengthening, informed consent is sought from families to enable more effective case coordination, participation and family-led, strengths-based practices. In practice, this allows for the effective engagement of support programs to enable holistic responses that address family need.

# 3. Aboriginal child safety

Aboriginal child safety seeks to strengthen the capacity and skills of the community to support its vulnerable families by building on the cultural safety net of supports and services for a child who has experienced maltreatment, enabling children to be supported in safe, strong and thriving families and communities. Aboriginal child safety approaches focus on restoration and reunification, maintaining important relationships and promoting cultural continuity, as well as ensuring children stay in their communities when they are found not to be safe at home.

Importantly, Aboriginal child safety is focused on stability for an Aboriginal child through trauma-informed practice and embedded within a culturally rich environment.

Types of supports and services for Aboriginal children and young people away from their parents include but are not limited to:

- restoration services
- all foster and relative/kin care arrangements
- Intensive Therapeutic Care (ITC)
- leaving care planning and after care.

## Key roles and responsibilities

DCJ and service providers work to:

- uphold the holistic rights of a child by ensuring that the best interests of the child are properly considered in all decisions and actions affecting them
- safeguard a child's cultural rights to ensure that they grow up and remain connected to the people most important to them
- ensure a child's safety, stability and cultural continuity is met
- partner with the child, family and community through Aboriginal family-led decision making processes to identify appropriate family and kinship care arrangements for a child to be safely returned to their family and community in a timely manner
- record relevant data about entry point, assessment, actions and outcomes achieved, enabling oversight by DCJ and Aboriginal Community Controlled Mechanisms.

## Entry point

DCJ is responsible for considering all risk of significant harm (ROSH) reports that are transferred to a Community Services Centre from the Child Protection Helpline that relate to Aboriginal children and their families and determine an appropriate response (if any). This is called Triage Assessment.

DCJ practitioners ensure the following is included in triage assessment:



- Aboriginal children and their families are identified as early as possible so that they can receive culturally appropriate supports and services in a timely manner
- An Aboriginal child's identity is accurately and consistently recorded to ensure that their cultural rights are protected and promoted. This is an active and ongoing process for all children, and includes the child (where age and development permits), the parents, family/kin or community members
- Identify significant relationships and broader family networks that may be able to support the child and their family
- Record data accurately so it can be made available to ACCMs.

DCJ practitioners achieve the above by:

- engaging with Aboriginal communities, including through Aboriginal Community Controlled Mechanisms where possible, to seek guidance and input into triage, assessment and any planned intervention as a response to risk of significant harm
- supporting Aboriginal families to participate in any decision-making or actions affecting their children

collecting information which can be provided to Aboriginal community controlled mechanisms who have role in oversight at a systemic level of Aboriginal child safety decision-making processes.

## Safety and risk assessment

DCJ is responsible for conducting an assessment to determine whether the child or young person has been harmed or is at risk of significant harm. DCJ does this by using the Safety, Risk and Risk Reassessment (SARA)<sup>3</sup> to assess a child or young person's immediate safety and the risk that they may experience abuse or neglect again in the future by an adult in their household.

Every effort is made to engage with Aboriginal families and communities and support their participation in these processes in order to make valid assessments of risk and safety with respect to the best interests of their children.

Aboriginal family-led decision making processes continue as part of the child protection response for identifying and addressing safety concerns with the family, kin and community and decision making if the child is unable to safely remain with their family.

DCJ practitioners:

- make active efforts to engage with Aboriginal communities through an Aboriginal Consultation before carrying out the SARA. The consultation includes:
  - » identifying the nature of the risk/concern, family strengths and supports
  - » discussion of possible actions and alternatives
  - » identification of family networks to contribute to safety and care, and family finding processes
- document reasons if Aboriginal consultation is unable to occur due to immediate safety issues

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<sup>3</sup> SARA is a set of Structured Decision Making® tools that are used alongside the professional judgement of DCJ practitioners and is the primary child protection assessment used by DCJ.



- visit the child, their parents and family/kin to carry out the SARA; where possible with an Aboriginal practitioner or Aboriginal advocate
- verify that the child's cultural status has been accurately recorded
- make diligent efforts in contacting family/kin and community members to inform decision making of the safety assessment as well as continue with family finding processes.

## Key steps

- DCJ visits a child, their parents and family/kin to carry out an assessment and incorporates the principles of [Aboriginal Family Led Assessments](#) to identify and clarify the concerns related to the assessment
- A safety assessment is completed with the family during the first face-to-face contact and recorded in ChildStory within two days of the visit.  
Children are assessed as either being 'safe', 'safe with plan', or 'unsafe' (Note: if 'safe' or 'safe with plan', see 'Section 2 – Aboriginal family strengthening')
- A risk assessment is completed within 30 days of the safety assessment being completed. A risk assessment helps DCJ to assess risk that a child may experience abuse or neglect in future in the home where they live, with risk level outcomes of 'low', 'medium', 'high' or 'very high'.  
A decision that a child or young person is in need of care and protection is made if there is a safety decision of 'safe with plan' or 'unsafe' or a risk level outcome of 'high' or 'very high'.
- A risk re-assessment occurs not more than 90 days (or sooner if there is new information that would affect assessment of risk) after the completion of the initial Family Action Plan for Change (case plan) and every 90 days thereafter. Risk reassessment helps DCJ to re-assess the risk to a child following the parents and family/kin's participation in case planning and work towards the child's case plan goal.  
DCJ ceases risk reassessment when the reassessed risk has an outcome of 'low' or 'medium' and where there are no unresolved dangers or a child enters out-of-home care
- DCJ may carry out a review safety assessment, if new information is received that would change the initial safety decision.

When a child is assessed as unsafe in their home, a DCJ practitioner moves the child to live with another person (in a place other than their usual home). This may be:

- by agreement as part of a 'Temporary Care Arrangement' (section 151) or
- by removal or assumption of care responsibility – when DCJ removes a child from their home under section 43 or 233, or assumes the care responsibility a child from another place (section 44).

When completing an assessment and making determinations about the safety of Aboriginal children and young people, DCJ ensures that Aboriginal families and communities are actively supported to participate in decision making.

It is essential that Aboriginal families and communities are actively engaged to participate in decisions about Aboriginal children and young people, including placement decisions.



Active efforts are made to identify and place Aboriginal children within their family, community and culture, consistent with the five elements of the Aboriginal child placement principle, in partnership with Aboriginal families, communities and Aboriginal Community Controlled Mechanisms, drawing on Aboriginal family-led decision making processes and Aboriginal advocates. Placement of Aboriginal children and young people is outlined below.

DCJ and service providers have a responsibility to work together in providing services to children and families, sharing relevant information to ensure valid assessments and support active efforts in addressing assessed safety and risk concerns. At each step, participatory approaches that engage Aboriginal children and young people, their families, and their communities are to be followed.

Whether or not a child is in care, DCJ has statutory responsibility for responding to child protection reports (section 30). For children in care, DCJ responds in line with the Permanency Case Management Policy and Safety in Care mandate. DCJ carries out an assessment and where appropriate:

- DCJ informs a funded service provider with case management of a new report
- DCJ consults with a funded service provider with current or prior case management, or any other relevant involvement with the child and their family
- DCJ liaises with a funded service provider with case management, when seeking direct contact with a child, their parents and family/kin in order to carry out an assessment. DCJ informs the funded service provider when making contact is planned, or if that is not possible, immediately after it has occurred
- Within 10 business days after the conclusion of the assessment, DCJ provides relevant information to the funded service provider about the outcome of the assessment. See 'Information exchange'

If a funded service provider has case management, the provider continues providing services to the child, their parents, family/kin and carer (where applicable) while the assessment is ongoing, unless DCJ and the funded service provider agree that these services are to cease.

A funded service provider may participate in and assist DCJ to carry out an assessment, for example:

- by accompanying DCJ practitioners to a home visit or
- by assisting DCJ in talking with parents/carers about the ROSH report
- by supporting family/kin to increase safety and reduce risk.

Participating in the assessment is not mandatory and occurs:

- by invitation from DCJ or request by the funded service provider and
- when DCJ and a funded service provider agree it will be beneficial to a child or their family/kin and
  - » the child or their family/kin agree to the service provider's participation
  - » funded service providers do not participate in the exercise of statutory powers of assumption or removal (section 43)
  - » a funded service provider shares all information relevant to the assessment and responds to DCJ requests for information exchange.

DCJ is required to engage Aboriginal children and young people, their families, and communities (including Aboriginal Community Controlled Organisations) in decisions (section 12). The processes by which Aboriginal people participate in such decisions must be clearly documented and forms part of



case planning. Aboriginal Community Controlled Mechanisms review placement data to identify and address systemic practice and process issues impacting on care and support of Aboriginal children.

## Aboriginal family-led assessment

Aboriginal family-led assessment is the process of supporting families to identify and clarify the concerns related to the assessment and helps the practitioner to prepare for case planning. Practitioners work through a 'cultural lens' and are supported by Aboriginal practitioners where possible. They include the full participation of Aboriginal families, including kin or other significant people, with a focus on gathering and sharing information from the family's perspective and may be reviewed when circumstances change or at any other time requested by the family. Information gathered during the assessment may include, but is not limited to:

- identification of the concerns or areas of support sought by the family
- understanding related issues that may be contributing to these concerns, including emotional wellbeing, intergenerational trauma and ongoing marginalisation/ disadvantage
- identification of existing formal and informal supports and family strengths, including family/kin and community sources of support, as well as potential supports that might be engaged
- identification of cultural needs and strengths including need for healing supports.

## Aboriginal family-led decision making

Aboriginal case planning is completed using Aboriginal family-led decision making processes. Aboriginal family-led decision making is not a one off process and is guided by Aboriginal cultural values and traditions relevant to each family.

Practitioners respect that families are experts in their own lives and partner with the whole family to enable meaningful participation in assessment, case planning and review, including identification of goals and priorities, existing and required supports and action plans to achieve goals and address risks.

Families can be supported by Aboriginal community facilitators who are independent from DCJ, nominated by the family and a trusted member of the family or community to fully participate in Aboriginal family-led decision making processes. ACCMs can play a role in identifying facilitators where the family consents. (Refer to factsheet – How AFLDM differs from FGC)

## Aboriginal case planning

### Safety, stability and cultural continuity

Aboriginal case planning is the case management practice of meeting an Aboriginal child's need for safety, stability and cultural continuity with a focus on permanency – ensuring that active efforts have been made to achieve restoration or reunification prior to taking any other action. Case plans are completed within 30 days of entering care.

Families are supported in case planning by Aboriginal community facilitators through Aboriginal family-led decision making processes ensuring that goals are:



- specific — clearly articulated goals tailored to the needs and circumstances of each family
- measurable — include clear indicators to observe change and identify when goals have been achieved
- achievable — include a clear action plan for achieving the goals
- realistic — identify the supports and resources needed to undertake the actions and are clearly linked to the identified risks
- timely — timeframes are determined based on understanding the needs and strengths of the child, parents, family/kin and the availability of resources.

Both DCJ and NGO Practitioners are to:

- engage active efforts to actively support and strengthen families
- promote and support a child's continuing connection to family (including siblings), culture and community
- apply and demonstrate adherence to [the Aboriginal child placement principles](#)
- focus on healing individuals, families and communities through their own services and supports designed and delivered by local Aboriginal communities
- engage Aboriginal Community Controlled Mechanisms.

Once approved by the court, DCJ provides the service provider with a copy of the sealed Care Plan, to be placed on the child's file. Service providers are responsible for implementing those parts of the Care Plan that are within its responsibility. Care planning includes how the cultural rights of Aboriginal children and young people are upheld (see 'Cultural planning')

Case plans are reviewed six monthly (restoration and other permanent care orders) and 12 monthly (long term care) with the child's family/kin, caregivers, and significant others named in the plan through Aboriginal family-led decision making processes. Aboriginal children are encouraged and assisted to participate in case plan decisions that affect them (as developmentally appropriate), with their views given due weight.

## Placement decision making

The placement of an Aboriginal child is made in accordance with the [Aboriginal child placement principles](#) (prevention, partnership, placement, participation, connection), including in particular the placement hierarchy established by the Care Act (section 13). This is applied when considering temporary care arrangements (section 151), removal (section 43 or 233), or assumption (section 44).

An Aboriginal child cannot be placed outside of family/kin unless:

- placement with family/kin represents a significant risk of harm
- there is clear and convincing evidence that all active efforts have been made to identify suitable family/kin
- all placement options have been exhausted in order of the placement hierarchy (section 13) and clearly documented the placement has been endorsed through the local Aboriginal Community Controlled Mechanism, where possible.



Aboriginal children are placed with their sibling/s in accordance with the Aboriginal child placement principles. Practitioners engage active efforts to keep siblings together and maintain and strengthen sibling relationships.

Irrespective of the type of order (including interim, final care, or guardianship orders), case management of Aboriginal children and young people is to be delivered by an accredited Aboriginal Community Controlled Organisation. Where this is not possible, the following steps are followed:

- Case management allocated to an accredited non-Aboriginal service provider on the approved register of non-Aboriginal partner organisations maintained by AbSec. Such organisations have a stated ongoing commitment to case management by Aboriginal Community Controlled Organisations and demonstrated evidence of supporting actions to achieve this goal.
- Any allocation of case management of an Aboriginal child to a non-Aboriginal service provider is notified to the relevant local Aboriginal Community Controlled Mechanism and AbSec through de-identified quarterly dashboard reporting and local partnership arrangements.
- Development of a timely strategy to transition case management to an accredited Aboriginal Community Controlled Organisation is established as part of case planning, with oversight from the local Aboriginal Community Controlled Mechanisms and AbSec.

## Preserving an Aboriginal child's relationships and connections

Permanency support services for a child in statutory care are provided to preserve and enhance a child's relationship and connectedness with their parents, siblings and family/kin. Service providers support a child to maintain these connections, and to renew or build new connections through regular family contact wherever possible and appropriate. In maintaining a child's sense of identity and connection with their family, community and culture, service providers and carers:

- make sure that family visits are well planned, flexible and a positive experience for a child where possible
- understand that maintaining these connections assists with restoration and family reunification and strengthens a child's sense of belonging, stability and cultural continuity
- comply with standards set by the Office of the Children's Guardian
- seek to provide a child with culturally and family-based experiences where they are able to interact with their parents, family and kin in familiar and natural environments
- utilise Aboriginal workers to supervise family visits where necessary. At times, carers may be required to supervise or participate in family visits with a child (where assessed as culturally appropriate and safe to do so).

## Cultural planning

Cultural planning is required to ensure Aboriginal children's cultural rights, identity, language and cultural ties are preserved, safeguarded and promoted. Cultural planning is captured in two complementary plans:

1. the Cultural Care Plan
2. the Cultural Support Plan.



The Cultural Care Plan is a section within the overall Care Plan, prepared by DCJ and presented to the Children's Court. It outlines critical information on the cultural identity of the child or young person, their family, community and Country, as well as identifying key community people in the child's life. The Cultural Care Plan notes how the cultural needs of the child or young person will be met while in care arrangements away from their parents.

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. It includes specific, age appropriate strategies for developing and maintaining a positive sense of identity and belonging.

Practitioners should engage with accredited or recognised Aboriginal Community Controlled Organisations early in the development and endorsement of cultural planning, as well as at the implementation stages through community controlled cultural activities and services.

Accredited and recognised Aboriginal Community Controlled Organisations have an important role in maintaining connection to family, community and culture for Aboriginal children and young people in statutory care. They are cultural experts having experience and history with families and serve their local communities through advocacy and leadership.

Cultural Support Plans are:

- developed within 30 days of the child entering statutory care
- developed with the child or young person, their family, extended family, kin, caregivers and community, with endorsement by recognised or accredited Aboriginal Community Controlled Organisations
- guided by culturally experienced practitioners
- implemented with the support of recognised or accredited Aboriginal Community Controlled Organisations
- supported and endorsed by ACCM
- reviewed at each case plan review.

Practitioners:

- initiate cultural planning as soon as possible by gathering relevant cultural information in preparation for developing the Cultural Support Plan
- develop Cultural Care Plans and Cultural Support Plans through Aboriginal family-led decision making processes and partner with the child (where age and development permits), their family and kin to provide meaningful strategies; plans are led and driven by the family
- communicate information sensitively and respectfully, acknowledging that a child's family may already be meeting a child's cultural needs
- make arrangements for cultural connections and experiences through participation in cultural activities, events and programs, to preserve the child's identity and connection to their family, community and culture; these arrangements are led and driven by the family
- engage recognised or accredited Aboriginal Community Controlled Organisations to support the development, endorsement and implementation of Cultural Support Plans as a key service for Aboriginal children and young people in statutory care



- support the carer to implement the cultural supports that facilitate family and community connections
- provide data on cultural support plans developed and implementation to Aboriginal Community Controlled Mechanisms.

Carers support a child's Cultural Support Plan by building strong partnerships with the child's Aboriginal family and community to make sure the child is supported to build and maintain connections with them and their culture.

Service providers may seek additional supports through Aboriginal Community Controlled Mechanisms, including but not limited to:

- how to effectively engage with Aboriginal families and communities
- expert advice on cultural matters affecting the child, family and community
- family finding and family research supports, including genealogy
- work alongside practitioners to help develop and implement the Cultural Support Plan.

### Case planning for siblings

Case planning for a child's sibling relationships is considered throughout all case planning processes, as part of participatory Aboriginal family-led decision making processes and case planning in partnership with Aboriginal families and communities. Through active engagement with the child's family and community, sibling relationships can be identified and supported in a timely way.

Aboriginal family led approaches also support the co-placement or planning of ongoing contact between siblings, the alignment of case plan goals (where appropriate), and promote continuity in casework across siblings groups.

Sibling case planning is an immediate priority – it does not wait until a future case review. Delay to sibling case planning risks a child experiencing extended periods of isolation from their siblings.

Where siblings are assumed into care, every effort is made to place siblings together and with family and community, consistent with the placement hierarchy of the Aboriginal child placement principles (section 13) Aboriginal sibling groups are case managed by an accredited Aboriginal Community Controlled Organisation wherever possible.

### Co-placement and co-location of siblings

When a child and their siblings are in different placements, DCJ and/or funded service providers (whichever has case management), consider how the children may be co-placed and co-located where assessed to be in their best interests:

- Sibling co-placement (the preferred choice) involves the placement of a child and their siblings in the same residential setting under the care of the same carer.
- It includes partial co-placement where as many of the siblings as possible are co-placed, resulting in an overall reduction in the number of placements across the sibling group.

If not all siblings can be co-placed, sibling co-location involves placement of a child and their siblings (in two or more placements) in the same geographical area. This results in substantially increased



opportunities for contact with each other, for example, allowing them to attend the same school or child care centre, or participate in the same extracurricular activities.

### Sibling contact

When a child and their siblings are in different placements, both DCJ and/or funded service providers (whichever has case management), are to ensure siblings:

- have regular sibling contact with each other – that is, the sibling bond is nurtured and does not necessarily need to be tied to ‘family time’ with parents or other extended family members
- are provided with information about their respective care arrangements, including information about changes in their placement
- are provided with information about their siblings’ birthdays and other relevant dates, and where practical, have sibling contact time to celebrate these occasions
- are provided with their siblings’ contact details, including their telephone number and email address, unless there is a court order prohibiting the disclosure of this information, or when a practitioner considers that disclosing this information could place the child or others in the household at risk of harm.

### Active efforts

Practitioners demonstrate the steps they have taken to address the identified risks that underlie the decision to remove Aboriginal children from their family, including:

- ensuring due diligence is given to an Aboriginal child or young person’s individual situation and is tailored to their and their family’s needs
- conducting comprehensive Aboriginal family-led assessments, including early family finding and family network mapping, with a focus on preservation and restoration as the primary case plan goal
- identifying culturally appropriate informal and formal supports in collaboration with Aboriginal families throughout the decision making and goal making case planning process with the primary goal to support Aboriginal children and young people to remain safe at home or with family/kin
- actively supporting families to overcome barriers to access identified supports
- conducting a diligent search in finding a child’s family/kin, ensuring consultation has occurred with significant family members to provide family structure and support for the child and parent/s
- where the family has consented, identifying and notifying the child’s community through Aboriginal Community Controlled Mechanisms, to participate in decision making
- actively supporting parents, families and kin through the steps of the case plan, ensuring that they are provided culturally responsive supports with a focus on preservation and restoration as the primary goal
- offering and providing culturally appropriate family preservation and restoration strategies, including healing and trauma-informed therapeutic supports
- supporting regular and ongoing family visits with parent/s, siblings and kin in the most natural setting possible, as well as in-home visits, consistent with the need to ensure the safety and wellbeing of the child



- seeking out natural helping resources at a local level including family/kin and the community
- active efforts are properly documented and aligned to the above guidance points, and de-identified data is provided to the Aboriginal community controlled mechanism.

## Permanency support services

DCJ practitioner determines which permanency support services a child, their parents, family/kin receive, based on:

- the outcome of the assessment
- the case plan goal and action plan as identified with the family through Aboriginal family-led decision making processes.
- appropriate Aboriginal consultation

Given the significant impact of these decisions on Aboriginal children and families, Aboriginal Community Controlled Mechanisms are utilised to enable oversight at a systemic level of decision making.

In this way, Aboriginal Community Controlled Mechanisms provide opportunities to ensure that local casework practice processes:

- properly support families to participate fully in decision making processes
- such as case planning represent the best interests of Aboriginal children and young people
- such as case plan goals are developed by Aboriginal children and young people and their families through Aboriginal family-led decision making processes
- provide community oversight and endorsement of:
  - » case plan development process, particularly where it includes transfer of parental responsibility
  - » reviews of the case plan, actions and achievement at a systemic level.

Service providers coordinate the provision of permanency support services as part of a case plan that actively supports parents, family/kin and carers to achieve the child's case plan goal DCJ and the service provider closely monitor progress toward achieving the child's case plan goal.

Permanency coordinators work collaboratively with service providers to identify, allocate and access appropriate packages and culturally appropriate services to meet case plan goals, they also facilitate exits from OOHC. Support packages are reviewed with service providers every six months to ensure that children and families achieve the permanency case plan goal.

Permanency support services are targeted services that include:

- Family/kin preservation services – casework services that enable a child identified as being at risk of significant harm to live safely at home, actively supporting their parents and family/kin to address the risks identified, build capacity and access formal and informal supports to safely support their child's development and wellbeing.



These services are referred through Aboriginal family strengthening:

- Restoration services – casework services that help parents, family/kin, carers and other significant people achieve the safe restoration of a child to their parent/s through the provision of active supports to address identified risks.
- Aboriginal guardianship services – engages the child, their parent/s, family/kin, in exploring family and kinship care arrangements and assess the suitability of a proposed family member where parents have been unable to make the changes necessary despite the active efforts of tailored supports. Carers demonstrate that the child’s cultural rights and relationship with their parents, family and community are safeguarded, with supports and monitoring provided by accredited Aboriginal agencies ensuring ongoing supports and connection.
- Long term care – aims to provide culturally embedded care where active efforts have not been successful in achieving restoration. Long term care providers maintain standards for accreditation, including demonstrating how important connections to family, community, culture and Country are being maintained.

### Note on adoption

It is acknowledged that adoption of Aboriginal children and young people through the statutory system remains a contested area of policy.

AbSec does not support the adoption of Aboriginal children through the existing processes of the statutory child protection system in NSW, and is of the firm belief that the safety, welfare and wellbeing of Aboriginal children can be achieved without severing their connection to family, community and culture.

This reflects the overwhelming view of Aboriginal individuals and community controlled organisations consulted, and the evidence regarding the impact of past practices on Aboriginal peoples, and Indigenous peoples internationally.

AbSec advocates for the provision of meaningful safeguards to ensure that all Aboriginal children and young people placed through the statutory system are safe and are supported to enjoy their rights in full, including their cultural and identity rights, with mechanisms for the periodic review of their placement and treatment.

Critically, Aboriginal communities themselves must be empowered to administer these systems, consistent with the findings and recommendations of *Bringing Them Home*. This is not consistent with the current provision of adoption orders.

In AbSec’s view, and the consensus view of Aboriginal Community Controlled Organisations consulted, orders that sever Aboriginal children from their family/kin, community and culture are not considered to be in the best interests of Aboriginal children and young people. Imposing adoption on Aboriginal communities through non-Aboriginal mechanisms is not consistent with the principle and statutory obligation regarding self-determination, and is in breach of the rights of Aboriginal peoples.

The NSW Government position is that open adoption is a permanency option for Aboriginal children within the legislated parameters provided. Legislated permanent placement principles (section 10A) of the Care Act provide for adoption as the last preference for Aboriginal children, when other preferences are assessed as ‘not practicable or in the best interests of the Aboriginal child’.



Where adoption is considered, the [NSW Adoption Act 2000](#) makes specific provisions that address the needs of Aboriginal children, families and communities. The Adoption Act (Division 2, section 36) states 'An Aboriginal child is not to be placed for adoption unless the Secretary is satisfied that the making of the adoption order is clearly preferable in the best interests of the child to any other action that could be taken by law in relation to the care of the child'.

Prior to proceeding with the adoption of an Aboriginal child, the child's extended family must be consulted and their views and wishes considered. Placement for adoption must also be made in consultation with a local, community-based and relevant Aboriginal organisation, and adheres to the placement hierarchy of the Aboriginal child placement principles.

DCJ acknowledges that such discussions must be sensitively conducted and acknowledge the trauma that many Aboriginal families have suffered as a result of systemic injustices.

## Types of care arrangements for Aboriginal children and young people away from their parents

Care arrangements for Aboriginal children and young people away from their parents is provided by accredited service providers who deliver OOHHC services to Aboriginal children and their families/kin. The primary case plan goal may be set as restoration, family/kin reunification, long term OOHHC or Aboriginal guardianship. Given the significant impact of such decisions, this goal is established through Aboriginal family-led decision making processes, supported by Aboriginal community facilitators and family supports, with oversight of the case management process through Aboriginal Community Controlled Mechanisms.

Practitioners ensure that a child is:

- placed in accordance with the placement hierarchy of the Aboriginal child placement principles (section 13)
- placed with their siblings and on Country where possible
- actively supported to achieve restoration and reunification to their family/kin with appropriate step-down supports
- supported to participate in Aboriginal family-led decision making processes with their parents, family and kin
- safely supported in culturally rich environments
- supported by recognised and accredited Aboriginal Community Controlled Organisations
- supported to achieve safety, stability and cultural continuity, and to meet permanency goals within two years.

DCJ and service providers ensure:

- culturally responsive case management practice and service responses
- a child is placed with an accredited Aboriginal Community Controlled Organisation where capacity exists

If not, case management is allocated to an accredited non-Aboriginal service provider on the approved register of non-Aboriginal partner organisations maintained by AbSec. Such organisations have a stated



ongoing commitment to case management by Aboriginal Community Controlled Organisations and demonstrated evidence of supporting actions to achieve this goal.

- a child and their carer are supported to transition to a recognised and accredited Aboriginal Community Controlled Organisation where capacity exists<sup>2</sup>
- that Aboriginal children are actively supported to enjoy all of their rights, regardless of the type of order or permanency goal, delivered through and supported by Aboriginal Community Controlled Mechanisms and organisations.

This includes access to ongoing supports, monitoring and oversight of their care, and implementation of family contact and cultural care and support plans.

## Temporary Care Arrangements

### What is a Temporary Care Arrangement?

A Temporary Care Arrangement (TCA) is a 'placement intervention' that may arise from DCJ carrying out SARA in which:

- dangers are identified that cannot be addressed by a safety plan, but can reasonably be mitigated within 90 days
- the child is assessed as unsafe and in need of care and protection
- the parent consents voluntarily or is assessed as 'incapable of consenting'
- there is a permanency plan involving restoration of the child to their parents
- the child is placed in the care responsibility of the Secretary of DCJ and allows DCJ to make care decisions (section 151).

DCJ places the child with an authorised carer (section 151(2)) in an OOHC placement (see 'Placement Decision Making'). Aboriginal family-led decision making processes are used to engage families and other informal supports, as well as identify and access formal supports, to safely restore Aboriginal children and young people to their family. Aboriginal advocates are engaged at the earliest opportunity to ensure that parents are appropriately informed and able to provide free, prior and informed consent.

The carer makes decisions regarding the day to day care of the child, including decisions in respect of consent to medical/dental treatment, managing behaviour, permission to participate in activities and decisions about education and training (section 157).

The period of any TCA is up to three months in a 12 month period (section 152) subject to assessment, these arrangements may be extended for a further period of up to three months (in same 12 month period) where parents are capable of consenting. The maximum period for a TCA or multiple arrangements is six months in any 12 month period (section 152(4) (a)).

TCAs require a case plan review (section 155), when the period of the TCA exceeds three months.

Restoration from a TCA is different from restoration from statutory OOHC because there are no court proceedings, no court order and parental responsibility (PR) remains with the parent.

### Key steps

- DCJ visits a child, their parents and family/kin to carry out a SARA



- During SARA, the child is assessed as unsafe and in need of care and protection, and the child requires a placement intervention
- DCJ involve relevant Aboriginal Community Controlled Mechanisms including Aboriginal advocates in decision making and case planning
- DCJ and the parents sign a TCA Agreement form agreeing to the Secretary having care responsibility for their child and the placement with an authorised carer.

DCJ prepares a case plan within 30 days of a child entering a TCA with a goal of restoration. The TCA ends when:

- the parent requests DCJ return their child to their care, or
- the child is restored by DCJ, or
- DCJ files a Children's Court care application seeking other care arrangements.

### Collaborating in arranging Temporary Care Arrangements

In TCAs, DCJ and funded service providers have important complementary roles. Wherever possible, Aboriginal children and families are supported by accredited Aboriginal Community Controlled Organisations, including case management of the placement. Aboriginal families and communities participate in such decisions, including placement decisions.

A funded service provider can provide a TCA placement, noting that:

- TCA placements are in addition to funded service provider contracted volume
- the funding approach is based on pro-rata application of Permanency Support Program (PSP) package costs and invoiced on a fee-for-service basis
- if the period of the TCA is over three months, the funded service provider providing the placement convenes a case plan review meeting
- DCJ ensures attendance at the case review meeting by a practitioner with decision making delegation.

### What is Respite?

Respite is planned, regular or one-off time limited breaks for parents, carers and children. It provides time out from the demands of the parenting and caring role and can enrich the range of social networks and experiences for the child. Respite is considered as an opportunity to mobilise the network of care to meet the needs of Aboriginal children and young people in a supported, sustainable, and culturally embedded way. Plans for respite are established through participatory processes, including Aboriginal family-led decision making, as part of normal case planning. As with other areas of casework, oversight at a systemic level is provided by Aboriginal Community Controlled Mechanisms, and practitioners must adhere to Aboriginal and Torres Strait Islander principles. Emergency placements are not 'respite'.

Respite can occur in the child's home or a variety of settings. It can be for different lengths of time and frequency, depending on need of the parent or carer.

Respite can be provided by family/kin, friends, neighbours, volunteers or professional carers. Extended family members who provide regular, frequent respite to children in OOHC are required to be authorised in keeping with clause 28 of the [Children and Young Persons \(Care and Protection\) Regulations 2022](#).



Irregular, occasional arrangements, such as a friend's sleep-over or babysitting are not considered to be a respite placement, and do not require the person providing respite care to be authorised.

### Respite entitlement

Regardless of whether case management is held by DCJ or a funded service provider, carers of a child in OOHC, and parents of a child receiving PSP preservation casework, are entitled to respite.

The respite entitlement set by DCJ and included in costing of PSP funding packages is the equivalent of up to 24 nights respite per year. Whilst the calculation for respite funding is based on 'nights':

- respite can take many forms and is not restricted to overnight care or care outside a carer's or parent's home
- innovative and flexible arrangements can meet the needs of carers and parents while ensuring that a child feels safe and secure.

## Future planning and after care

Practitioners commence future planning (also known as after care planning) when a young person reaches 15 years of age. It includes details of holistic supports that are relevant to their individual needs, such as:

- housing
- education and training
- employment
- financial security
- social relationships and support networks, including family connections (and reconnection where required)
- health – physical, emotional (including self-esteem and identity), mental and sexual
- cultural supports and lifelong connections
- life (and after care) skills.

Future plans (also known as after care plans) are:

- reviewed annually and are aligned to a young person's individual needs and future aspirations
- developed with the young person, their family/kin, caregivers and community
- guided by culturally experienced practitioners
- implemented with the support of recognised or accredited Aboriginal Community Controlled Organisations.

Practitioners:

- take active and responsive action by supporting a young person to maintain and rebuild strong and positive links to their family and community, including their connection to culture
- consider each young person's unique experiences and characteristics, reflecting on the strengths and resources available to them
- develop plans in partnership with the young person and through Aboriginal family-led decision making processes where they feel safe and supported by the people who matter to them



- develop plans that are consistent with transitioning from OOHC to independence
- engage recognised or accredited Aboriginal Community Controlled Organisations to support the development and implementation of future plans, including Reconnect 15+, as a key service for young people transitioning from statutory care.
- collect aggregated data about future plans for Aboriginal young people to provide to Aboriginal Community Controlled Mechanisms.

Practitioners include a set of future planning and after care services including financial assistance prior to a young person transitioning from statutory care. The plan steps out what is needed up until the young person turns 25 years, and how young people will be actively supported to achieve the goals and access the supports included in the plan. Such plans link to Aboriginal Community Controlled Organisations at the Aboriginal community response and Aboriginal family strengthening levels as required. Approval of after care services and financial assistance is sought from DCJ well in advance of a young person transitioning from statutory care. DCJ and service providers clearly document that they have actively engaged with and sought endorsement from recognised and accredited Aboriginal Community Controlled Organisations in the development of the plan.

Relevant Aboriginal Community Controlled Organisations support Aboriginal young people to achieve the goals and access supports outlined in the plan. Aboriginal Community Controlled Mechanisms provide systemic oversight of future planning, after care planning and implementation processes.

## Information exchange

Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 allows DCJ and service providers who are prescribed bodies to exchange information that relates to a child or young person's safety, welfare or wellbeing. This is whether or not the child or young person is known to DCJ, and whether or not the person to whom the information relates to gives consent to the information being shared. Where possible, consent is obtained to ensure best practice.

A prescribed body is any organisation listed in section 248(6) of the Children and Young Persons (Care and Protection) Act 1998 or in clause 5 of the Children and Young Persons (Care and Protection) Regulation 2022.

Accredited Aboriginal Community Controlled Organisations are permitted to exchange information under the provisions of Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998.

Aboriginal Community Controlled Organisations that are not accredited by the Children's Guardian under Schedule 3A of the Children's Guardian Act 2020 to provide statutory out-of-home care or supported out-of-home care and other Aboriginal Community Controlled Mechanisms are not permitted to exchange information under the provisions of Chapter 16A as they are not a prescribed body.

Exchange of information with Aboriginal Community Controlled Organisations that are not accredited by the Children's Guardian and with other Aboriginal Community Controlled Mechanisms is only permitted where the child, young person and family have consented to the information being shared.

Chapter 16A also requires prescribed bodies to take reasonable steps to coordinate decision making and the delivery of services regarding children and young people.



DCJ and prescribed bodies make reasonable efforts to provide relevant information requested (chapter 16A and section 248) within seven business days or within other timeframes for providing evidence.

## Legal issues – court proceedings

In circumstances where case management responsibility has been transferred to a service provider before or during court proceedings, DCJ and the service provider both have important complementary roles:

- DCJ acts as a model litigant in proceedings, whether or not they've been initiated by DCJ. This includes ensuring that Aboriginal families and communities have been heard in decision making and have been given an opportunity to provide care for a child within their own communities when a child is unable to live at home with their parents or family/kin
- DCJ liaises with a service provider and seeks direct contact with a child, their parents, family/kin and carers in order to:
  - » continually assess safety and risk
  - » coordinate and file evidence in proceedings based on first hand involvement with the child, family/kin and carers

This includes the outcomes of consultation through Aboriginal family-led decision making processes and Aboriginal Community Controlled Mechanisms, and demonstration of adherence to the Aboriginal child placement principles:

- DCJ seeks endorsement of Care Plans, including placement decisions and cultural planning through Aboriginal Community Controlled Mechanisms, providing community oversight of Aboriginal case planning processes and informing the court of the views of Aboriginal Community Controlled Mechanisms regarding Aboriginal children and young people.

During court proceedings, service providers with case management responsibility:

- continue to provide services ensuring the child's health, safety and wellbeing is paramount and engage all active efforts towards restoration and family- reunification
- continue to convene case plan and Cultural Support Plan reviews demonstrating that Aboriginal family-led decision making processes have been followed
- facilitate direct contact by DCJ practitioners with a child, their parents, family/kin and carers
- share all information that would reasonably affect assessment, filing of evidence in proceedings and respond to DCJ requests for information exchange
- arranging for affidavit/report authors to be available to give evidence in the Children's Court if required
- implementing decisions regarding drug and alcohol or DNA testing of parents
- contributing to developing a Care Plan with DCJ
- complying with Children's Court orders, including preparation of section 76 or 82 reports by the due dates and organising contact, respite or other action in accordance with court orders and the best interests of the child.



## Providing evidence

DCJ may request a service provider with (current or prior) case management responsibility to provide relevant information about a child, their parents or family/kin, to be filed as evidence in court proceedings. Information may include cultural case plans, case plans, records of family visits, school reports, health reports or other assessments. Information may also include documented evidence of active efforts to achieve restoration and family reunification.

The service provider makes reasonable efforts to provide the information to DCJ within seven business days of a request or contacts DCJ to negotiate a different time frame.

A service provider's employee may be required to give evidence in the proceedings by way of affidavit. If so, the service provider employee may be required to attend court to give evidence at any interim or final hearing.

## Court outcomes

DCJ provides a funded service provider (that is not a party to court proceedings) with information about the court outcomes. Reasonable efforts are made by DCJ to provide the information about court outcomes within two business days of DCJ receiving a report of the outcome from the DCJ legal officer, external legal practitioner or court liaison officer.

The information provided by DCJ may include:

- the date of the court appearance and any future relevant court dates
- interim or final orders made and any notations to those orders
- the timetable (due dates) for filing evidence or reports
- any relevant undertakings given by any party any agreements between parties in relation to family and sibling contact time or other arrangements impacting upon the placement
- any other matters that may be relevant to a child's placement.

Information about a court outcome is important to make sure the funded service provider is aware of, and acts in accordance with interim or final orders made by the court, and to put in place appropriate:

- family and sibling contact times between a child, their parents and family/kin, and provide information to the carer that is relevant to the child's placement (for children in OOHC)
- arrangements to support compliance with other orders, for example a parent capacity order, undertakings or a supervision order.

It is not the role of funded service providers to provide information about court proceedings to:

- a child – this is the role of the child's independent or direct legal representative
- the child's parents or family/kin – this is the role of the parent's legal representative.

However, a funded service provider casework practitioner may:

- give information to the child of a general nature in relation to court proceedings
- facilitate the child making contact with their legal representative



- facilitate the child making contact with a DCJ casework practitioner that is giving instructions or involved in giving instructions in court proceedings.

Information that may not be provided by DCJ to a funded service provider includes:

- information protected by legal professional privilege, for example records containing legal advice given by a DCJ legal officer or external legal practitioner
- Children's Court clinic assessment reports and documents filed in the proceedings by other parties, unless the court has granted leave.

A DCJ legal officer is able to provide advice about whether information may be subject to a claim of privilege and, if the information is privileged, whether DCJ agrees to waive privilege.

## Children's Court clinic assessment

If a Children's Court clinic assessment is required, the DCJ care solicitor (or other Party to the proceedings) makes an application for a culturally appropriate assessor to undertake it.

Access to a Children's Court clinic assessment report by a funded service provider that is not a party to court proceedings, can only be provided with leave of the Children's Court.

DCJ seeks leave to provide the report to the funded service provider. The DCJ legal officer or external legal practitioner makes the application during proceedings and before final orders are made.

## Dispute Resolution Conference

There may be circumstances where DCJ, or a service provider with case management responsibility (that is not a party to proceedings), want the employee of the service provider to attend a Dispute Resolution Conference (DRC).

In considering whether the employee attends, DCJ considers:

- the nature of the issues in dispute
- if the employee has a meaningful relationship with the child
- how they are to be involved in supporting the child, their parents and family
- whether the employee provides information that is relevant to the proceedings and if this helps all parties reach an agreement
- whether the employee attends all or part of the DRC
- advice provided by the DCJ care solicitor or external legal practitioner
- any other relevant factor.

If agreed by all parties, the funded service provider practitioner (that is not a party to proceedings) attends a DRC and provides input, noting:

- they have or will have a casework relationship with the child, their parents and family/kin
- they may possess first-hand knowledge about the placement and carer
- they will most likely be implementing the Care Plan approved by the court.



Permission for the funded service provider's practitioner to attend the DRC is sought by the DCJ legal officer or external legal practitioner, in accordance with DCJ instructions. In giving instructions, the DCJ practitioner considers:

- the relevance of the practitioner's likely input to the issues in dispute
- whether the practitioner's input will help all parties reach an agreement
- the extent of the practitioner's relationship with the child
- whether the practitioner attends all or part of the DRC
- legal advice provided by the DCJ legal officer or external legal practitioner
- any other relevant factors.

Permission for the practitioner to attend a DRC is decided by the Children's Registrar who convenes the DRC. In considering the request, the registrar seeks the views of all parties.

If permission is granted, the practitioner follows the guidance of DCJ legal officer or external legal practitioner regarding their participation, and the guidance of the Children's Registrar.

The funded service provider practitioner is bound by confidentiality of the DRC.

DCJ also considers whether an independent Aboriginal advocate for the child, their parents and family/kin or other suitable Aboriginal community representative (this may be a representative of the Aboriginal Community Controlled Mechanism) attends the DRC.

Permission for an Aboriginal advocate to attend all or part of a DRC is decided by the Children's Registrar, who convenes the DRC. In considering the request, the registrar seeks the views of all parties.

If permission is granted, the funded service provider's practitioner and/or Aboriginal advocate follows the guidance of the DCJ care solicitor or external legal practitioner regarding their participation, and the guidance of the Children's Registrar. They are bound by confidentiality of the DRC, which includes provisions to ensure that the proceedings of the DRC are not repeated or recorded.

## Section 76 or 82 reports

The service provider with case management responsibility is responsible for preparing a section 76 report regarding the progress of a supervision order; or section 82 report regarding the suitability of a child's permanency arrangements, following making of short term or final orders by the Children's Court. The report is prepared with the child's parents, family/kin and carer through Aboriginal family-led decision making processes. The service provider provides evidence to the court that this has occurred.

The service provider satisfies DCJ and the court that they have made active efforts in working towards restoration and family reunification with parents, family/kin and that the child's cultural identity and connections to culture, family and community have been preserved, safeguarded and promoted.

DCJ is responsible for approving and filing the section 76 or 82 report prepared by the service provider – see the powers and functions of parental responsibility exercised by DCJ as outlined in the Care Act. The service provider provides DCJ with a copy of the section 76 or 82 report seven business days prior to the date on which it is due to be filed.



## New court proceedings

Any decision to initiate new care proceedings (section 61) or re-open (section 90) proceedings in the Children's Court is made by DCJ in consultation with a funded service provider with case management and systemic oversight of Aboriginal Community Controlled Mechanisms, including local accredited Aboriginal Community Controlled Organisations. However a child, their parent, family/kin or any person with an interest in the welfare of the child can apply to re-open proceedings.

DCJ is always a party to new or re-opened court proceedings.

DCJ provides a funded service provider that is not a party to court proceedings with information about new or re-opened court proceedings. DCJ provides the information to the funded service provider as soon as it is made available, and where possible, prior to the matter being listed in court.

## Section 90 proceedings

Any decision to re-open proceedings in the Children's Court to vary or rescind care orders, such as a section 90 application proposing possible restoration or family reunification, is made jointly by DCJ and a service provider with case management responsibility. However, a child, their parents or any person with an interest in the welfare of a child can apply under section 90 without agreement by DCJ.

DCJ provides a service provider with case management responsibility (that is not a party to court proceedings) with information about new court proceedings, for example section 90 applications filed by a parent or another person. Reasonable efforts are made by DCJ to

provide the information to the service provider as soon as the information is made available to DCJ, and where possible, prior to the matter being listed in court.

## Joint allocation of parental responsibility for children in OOHC

Where a final care order is made allocating parental responsibility (PR) to a suitable person and the Minister jointly:

- the child is considered to be in statutory OOHC where the Minister retains the aspect of residence
- the child is considered to be in supported OOHC where the suitable person (not the Minister) retains the aspect of residence solely.

Case management of children in supported OOHC is provided by an accredited Aboriginal Community Controlled Organisation wherever possible, and otherwise retained by DCJ until such time as it can be transferred to an accredited Aboriginal Community Controlled Organisation.

## Other case management functions

When case management of an Aboriginal child, transfers to an Aboriginal funded service provider, and responsibility for day to day contact with the child, their parents and family/kin rests with that service provider, which provides permanency support services and helps them achieve the child's case plan goal.



Where no such agency has capacity, case management is allocated an accredited non- Aboriginal funded service provider on the approved register of non-Aboriginal partner organisations maintained by AbSec. Such organisations have a stated ongoing commitment to case management by Aboriginal Community Controlled Organisations and demonstrated evidence of supporting actions to achieve this goal.

The service provider demonstrates and documents any significant decisions or actions concerning the child have been made through Aboriginal family-led decision making processes and through engagement with recognised or accredited Aboriginal Community Controlled Organisation, in lieu of transfer of functions to an accredited Aboriginal Community Controlled Organisation once capacity is available.

## Identification and de-identification of Aboriginal children and young people

DCJ is responsible for making reasonable inquiries to determine whether a child or young person who is the subject of a report may be an Aboriginal child (section 32). This includes direct engagement with the child, their parents, extended family and community, recording all information provided about the child's family and cultural background.

A child is to be considered an Aboriginal child and the Aboriginal Case Management Policy and Rules and Practice Guidance applied if the child is of Aboriginal descent.

This requires engagement with Aboriginal communities through relevant Aboriginal Community Controlled Mechanisms. The Care Act empowers the Children's Court to make such a determination (section 5).

Key points to consider include:

- early identification to minimise the potential for delays in decision making and disruptions in the future, safeguarding the rights of Aboriginal children and families
- active efforts commence early, including the mapping and initiation of family finding processes, identifying the cultural background of members of their extended families as preliminary cultural planning for all children.

Any child of Aboriginal descent is to be identified as an Aboriginal child and treated and respected as an Aboriginal child. This includes engagement with family/kin and community in all decision making and the development of comprehensive cultural support planning as early as possible.

Aboriginal Community Controlled Organisations assist practitioners to identify Aboriginal children and families to protect and promote their cultural rights, including the development of a strong cultural identity that promotes child wellbeing. Practitioners seek out the advice and guidance of the representative of the Aboriginal Community Controlled Mechanism where there may be uncertainty in determining a child's Aboriginal status.

The de-identification of a child identified as an Aboriginal child is a serious matter as this decision fundamentally impacts on the cultural rights of Aboriginal children. If de-identification is being considered, this is always discussed with the representative of the Aboriginal Community Controlled



Mechanism, noting clearly the evidence supporting the view that the child is not an Aboriginal child. Decisions about whether a child is an Aboriginal child are determined through an Aboriginal Community Controlled Mechanism. Delegation within DCJ is at the Executive District Director level, with data about such processes shared with Aboriginal accountability mechanisms.

Practitioners do not need to confirm a child's relative meets the requirements of the Care Act (section 5) or Adoption Act 2000 (section 4), to determine that a child is Aboriginal. Evidence that a child has a relative who is Aboriginal is enough to establish Aboriginal descent.

If there is uncertainty or disagreement about a child's Aboriginality, confirm Aboriginality by using the following criteria in consultation with the child's Aboriginal community:

An Aboriginal child is:

A child who is descended from an Aboriginal who:

- (a) is a member of the Aboriginal race of Australia and
- (b) identifies as an Aboriginal person and
- (c) is accepted by an Aboriginal community as an Aboriginal person.

OR

A child who is determined by a Court to be 'of Aboriginal descent', that is, descended from the people who lived in Australia before British colonisation.

Confirm Aboriginality to help:

- inform casework and/or placement decisions

enable a relevant Court to make appropriate orders.

## Changes to a case plan goal

When a case plan goal needs to be changed due to significant change in circumstances, the funded service provider with case management responsibility:

- notifies the Child and Family District Unit and permanency coordinator of the proposal to change and jointly consider the change
- provides evidence that Aboriginal family-led decision making processes have occurred to inform the proposed change
- endorses (jointly with DCJ) the decision to change or discontinue the case plan goal, following an Aboriginal family-led decision making process.

Processes to make changes to case plan goals have oversight by the Aboriginal Community Controlled Mechanism, particularly when, as a result, the child or young person will enter statutory OOHC.

## Case management transfer

Case management of Aboriginal children and young people in OOHC is transferred to a funded service provider that is an accredited Aboriginal Community Controlled Organisation in the first instance.



Where no such agency has capacity, case management is allocated to an accredited non- Aboriginal funded service provider on the approved register of non-Aboriginal partner organisations maintained by AbSec. Such organisations have a stated ongoing commitment to case management by Aboriginal Community Controlled Organisations and demonstrated evidence of supporting actions to achieve this goal.

DCJ districts and funded service providers initiate and respond to case management transfer (CMT) as providers of preservation casework (non-OOHC) and as accredited child safe providers of OOHC.

Practitioners:

- include the child (where appropriate), their parents and family, in discussion about changes to case management
- work collaboratively to help achieve a child's case plan goal.

## What is case management transfer?

CMT involves the transfer of responsibility for case management from a 'transferring provider' (DCJ or a funded service provider) to a 'receiving provider' (most often a funded service provider):

- in relation to children that have a case plan goal of preservation, restoration, Aboriginal guardianship, or Aboriginal long term care
- on a specific case management transfer date – CMT does not occur across a range of dates or over a period of time.

In relation to Intensive Therapeutic Care (ITC), the Central Access Unit (CAU) is responsible for determining where case management sits.

Where possible, DCJ transfers case management of the child and family to a funded service provider that is an accredited Aboriginal Community Controlled Organisation within their community of belonging; and is responsible for building service capacity, alongside AbSec, of accredited Aboriginal Community Controlled Organisations delivering the Permanency

Support Program, in a timely manner. If this is not possible, DCJ shares relevant data with the Aboriginal Community Controlled Mechanism and informs AbSec of the intention to transfer case management to a non-Aboriginal funded service provider on the approved register maintained by AbSec. DCJ also shares relevant data with the Aboriginal Community Controlled Mechanism of any changes to the case plan goal resulting in entry to OOHC.

## Case management transfer date (CMT date)

Unless another date is agreed, the CMT date is:

- the date of commencement of preservation casework, that is the date the receiving provider first makes contact with the child, their parents or family/kin or
- the date of commencement of OOHC placement of the child with a receiving provider.

The transferring provider always convenes a CMT meeting prior to, or within 10 business days of CMT date.

This section does not apply to Temporary Care Agreements (TCAs).



## Initial case management transfer

Most CMT initially occur from DCJ to a funded service provider, when DCJ decides a funded service provider will have responsibility for achieving a child's case plan goal.

For children in OOHC, initial CMT only includes children subject to a care application (in the care responsibility of the Secretary of DCJ); or children in statutory OOHC as a result of an interim or final care order (in PR of the Minister).

CMT may occur before or during an interim order, or after final orders are made. CMT is unaffected by whether or not there are interim or final orders in place.

## Case management transfer occurring during case management

CMT occurs during case management if a different funded service provider will have responsibility for achieving a child's case plan goal.

CMT is avoided when it means change (or abrupt change) in a child's practitioner, weakens continuity of case management and/or decreases the likelihood the child's case plan goal can be achieved. Specifically, a change in practitioner can have an adverse impact upon the child and their parents or family/kin.

In minimising CMT, funded service providers consider innovative approaches to adapting service delivery to changed circumstances. For example, can additional services be purchased in another city or town where the child has relocated?

An unavoidable transfer of case management may include the following scenarios:

- the person caring for a child (either family or authorised carer) moves to a different city or town, or a child is restored to a parent in a different city or town; requiring CMT to a different provider operating in the child's new location
- a change in a child's case plan goal occurs and the funded service provider decides
  - » in consultation with DCJ, the child and their parents or family/kin – another funded service provider is more able to help achieve the new goal
- fulfilling the commitment to case management of Aboriginal children and young people by accredited Aboriginal Community Controlled Organisations
- a child's carer changes funded service providers by changing their authorisation (as carer) from their existing funded service provider to a funded Aboriginal Community Controlled Organisation.

DCJ:

- where possible, transfers case management of an Aboriginal child, their parents and family/kin to an Aboriginal funded service provider within their community of belonging or if this is not possible
- shares related relevant data with the Aboriginal Community Controlled Mechanism and AbSec of the intention to transfer case management to a non-Aboriginal funded service provider on the approved register maintained by AbSec or of the intention to place a child outside their community of belonging



- demonstrates to the Aboriginal Community Controlled Mechanism what attempts will be made to return the child to their community of belonging and how their cultural connections will be maintained through usual case planning
- establishes a strategy to transition case management to an accredited Aboriginal Community Controlled Organisation in the future as part of ongoing capacity building work
- provides data to the Aboriginal Community Controlled Mechanism (from their community of belonging) of any changes to a case plan resulting in entry to statutory OOHC
- works to build service capacity so that Aboriginal children transfer to a funded service provider that is an accredited Aboriginal Community Controlled Organisation delivering the Permanency Support Program in a timely manner.

## Responsibility for case management transfer tasks

DCJ, the transferring provider and receiving provider have important complementary roles in CMT:

- For placement of a child in foster care or Aboriginal foster care, the DCJ Child and Family District Unit (CFDU) makes a broadcast seeking a new OOHC placement.
- In the case of an OOHC placement in Intensive Therapeutic Care (ITC), the DCJ CAU makes a broadcast seeking a new Intensive Therapeutic Care (ITC) placement.
- The transferring provider convenes a CMT meeting prior to, or within 10 business days of CMT date. This includes all administrative tasks such as:
  - » updating the case plan or preparing a new case plan and circulating the meeting minutes and case plan within five business days (unless a different timeframe is agreed)
  - » providing all documents listed in Permanency Case Management Policy (PCMP) Resources – Checklist: Documents required for CMT to the receiving provider.

Note: Responsibility for obtaining any documents not yet available at the time (for example birth certificate, Medicare card, court orders) is transferred to the receiving provider (including related costs). CMT is not disrupted due to documents that are not yet available or do not exist at the time.

- The receiving provider:
  - » ensures attendance at the CMT meeting by a practitioner with decision making delegation
  - » begins case management on the CMT date (whether before or after the CMT meeting).

## Internal DCJ transfer

DCJ carries out an internal CMT when – as a result of a CMT between funded service providers – a different DCJ district or nominated DCJ unit is required to:

- manage contractual arrangements between DCJ and the receiving provider
- complete an assessment, risk reassessment and/or closing safety assessment (preservation and restoration)
- make any future court application (in the case of guardianship or adoption)
- exercise the powers and functions of PR.



Internal CMT is addressed separately in the DCJ Casework Practice Mandate, *Transfer of a child or family between teams, Community Services Centre (CSC)s, Interstate OOHC and JCPRP*.

## Approval of case management transfer

Prior approval is sought from DCJ for CMT between funded service providers noting DCJ is the agency:

- that commissions case management provided by a funded service provider (whether or not the child is in OOHC)
- exercising PR for children in statutory OOHC.

## Case management transfer back to DCJ

CMT from a funded service provider to DCJ occurs in exceptional circumstances when DCJ and the funded service provider agree the funded service provider cannot provide the child with safety and/or can no longer achieve the child's case plan goal.

Delegation for accepting CMT to DCJ is set at Category 5, DCJ Manager Client Services (and above) in consultation with the DCJ contract manager. CMT from a funded service provider to DCJ may include:

- the person caring for a child (either family or authorised carer) moves to a different city or town where there are no funded service providers operating or providing an outreach service and no other services can be purchased by the funded service provider
- an Away from Placement (unplanned absence) period has expired and no further funding has been provided by DCJ
- circumstances in relation to an interstate movement of a child are so complex that they fall outside the scope of Interstate Movement of Children in OOHC
- a critical organisational incident (for example, suspension or cancellation of child safe accreditation) has occurred and DCJ and the funded service provider agree that the funded service provider can no longer provide case management or
- a child exits statutory OOHC and enters supported OOHC as the result of a court order (the Minister no longer holds PR).

DCJ determines that CMT back to DCJ is required (as commissioning agency, DCJ may withdraw any child from case management of a funded service provider).

## Collaborating in assessing reportable conduct

When the new ROSH report contains allegations of reportable or criminal conduct by an authorised carer or other employee of the funded service provider, DCJ and the funded service provider have additional complementary roles:

- While DCJ is responsible for assessing the safety of the child, the funded service provider is responsible for assessing reportable or alleged criminal conduct of their employees, including the conduct of authorised carers.
- DCJ and the funded service provider each inform the other when an assessment is to commence.



- DCJ and the funded service provider conduct joint pre-assessment and post- assessment consultation (where appropriate).
- DCJ and the funded service provider coordinate joint interviews of the child and other children, and the carer (where appropriate).
- DCJ and the funded service provider exchange information with the other throughout the assessment that relates to:
  - » the safety of, risk of harm, or actual harm to the child and other children
  - » the child and other children's ongoing care and
  - » the assessment and outcome of the assessment.
- Within 10 business days after the conclusion of each assessment, DCJ and the funded service provider provide each other with:
  - » a copy of their respective assessments or
  - » only relevant information about the assessment (not a copy) if a decision is made (chapter 16A) to withhold the full assessment, for example, if legal advice is received that providing the full assessment would compromise the safety, welfare and wellbeing of a child.

## Interstate movement of children in OOHC

Interstate movement of a child is not the same as interstate transfer of an order.

- Interstate movement of a child concerns the physical movement of the child to an address in another jurisdiction that becomes their usual place of residence (for example, for the purposes of enrolment in school).
- Interstate transfer of an order concerns transfer, or registration, of a NSW care order in another jurisdiction, effectively transferring the order to the other state and altering the child's legal status.

## Requirement for permission and compliance with interstate protocol

Whether children in parental responsibility of the Minister are case managed by DCJ or a funded service provider, all proposed interstate movements require:

- permission of a DCJ principal officer, 42 days prior to any interstate movement
- involvement of Aboriginal children and young people, their family, community and relevant community organisations, including the Aboriginal Community Controlled Mechanism where possible, as part of normal case planning processes
- consultation with DCJ Interstate Liaison and
- compliance with obligations and responsibilities articulated in the Interstate Child Protection Protocol.



## The funded service provider's role in requesting permission

When interstate movement of a child in case management of a funded service provider is proposed, the funded service provider:

- makes a request for permission from the DCJ principal officer for the proposed interstate movement, using templates and guidance provided by DCJ Interstate Liaison to plan for an interstate movement
- provides written information to DCJ about how they propose to:
  - » support birth family contact, relationships and identity
  - » maintain support of the child and carer in the placement and
  - » support achievement of the child's permanency goal.
- provides information about how the child's Aboriginal family and community have participated in this decision, clearly noting how these groups were actively supported to participate and state their views
- provides information about a new placement (if a change to the placement is proposed) including evidence of the proposed carer's authorisation
- notifies of any proposed change in funded service provider (if a change in funded service provider is required see 'Case management transfer')
- initiates a 'proposal to change the case plan goal' (if a change to the goal is proposed) providing evidence of prior casework and pre-assessment (see 'Changes to a case plan goal')
- documents the outcome of the request for permission.

### DCJ role in giving or declining permission

The decision to give or decline permission for a proposed interstate movement is made by DCJ as the agency:

- that commissions case management by a funded service provider
- exercising PR for children in statutory OOHC.

The DCJ principal officer:

- uses the Interstate Child Protection Protocol, relevant DCJ Casework Practice Mandates and the Aboriginal Case Management Policy and these Rules and Practice Guidance to consider requests for permission
- requests or gathers further information, or obtains legal advice from the DCJ Child Law legal officer (as required) to inform the decision
- gives or declines permission for interstate movements using templates and guidance provided by DCJ Interstate Liaison and
- ensures the rationale for permission; conditional permission or declining permission is documented in ChildStory.



## Requirement for a nominated DCJ unit to hold secondary responsibility

Although the Minister transfers case management to funded service providers, funded service providers are not delegated any powers and functions of parental responsibility (PR) in relation to interstate movements of children in statutory OOHC and cannot make these decisions.

It is a requirement that a nominated DCJ unit holds decision making responsibility for a child that has moved or will move interstate.

The nominated DCJ unit makes all decisions in relation to:

- movement of the child interstate
- interstate requests of the other jurisdiction
- all PR decisions while the child resides interstate (until/unless transfer of orders) and arranging transfer of orders.

The nominated DCJ unit:

- liaises with the DCJ Principal officer
- ensures the Interstate Child Protection Protocol, DCJ Casework Practice Mandates and the Aboriginal Case Management Policy, have been followed and
- documents all decisions on ChildStory.

## Key steps – principal officer gives permission

When a DCJ principal officer gives permission for interstate movement of a child, DCJ and the funded service provider have important complementary roles:

- DCJ principal officer provides the funded service provider with written advice of:
  - » the decision to give permission and any reasons for it and
  - » any additional conditions that are to be met subject to permission taking effect.
- The funded service provider submits an updated OOHC case plan to the nominated DCJ unit, at least 21 days prior to the proposed interstate movement.
- DCJ Interstate Liaison provides advice and support to the principal officer and nominated DCJ unit (as required).
- The funded service provider convenes an interstate movement meeting with the nominated DCJ unit and any other relevant stakeholders. This includes all administrative tasks such as updating the case plan or preparing a new case plan and circulating the meeting minutes and case plan within five business days (unless a different timeframe is agreed).
- An officer of the nominated DCJ unit with decision making delegation (grade nine or above) attends the meeting.
- The purpose of the meeting is to identify roles and responsibilities of each stakeholder, considering:
  - » actions prescribed by relevant legislation and regulations in the receiving jurisdiction



- » what requests are to be made of the interstate child protection department under the Interstate Child Protection Protocol
- » how the funded service provider will respond to possible placement breakdowns, allegations against the proposed carer, reportable conduct, and quality of care concerns
- » how DCJ will assess possible ROSH reports and what support will be required of the funded service provider and
- » how interstate transfer of the child's care order will be facilitated.

## Key steps – principal officer declines to give permission

When a DCJ principal officer declines to give permission for interstate movement of a child, DCJ and the funded service provider have important complementary roles:

- The DCJ principal officer provides the funded service provider with written advice of the decision to decline to give permission and the reasons for this decision.
- DCJ Interstate Liaison provides advice and support to the principal officer and nominated DCJ unit (as required).
- The funded service provider convenes a case meeting with the nominated DCJ unit, the child's current carer and/or proposed carer, the child, their parents or family (where appropriate) and any other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within five business days (unless a different timeframe is agreed).
- An officer of the nominated DCJ unit with decision making delegation attends the meeting. The purpose of the meeting is to:
  - » provide the carer with information and the rationale for the decision
  - » listen to the carers views and wishes and
  - » explore alternatives that meet the child's needs and how these are to be funded.
- The funded service provider prepares and submits to DCJ an updated OOHC case plan that addresses the child's needs in the context of the child remaining in NSW. For example, it may include regular visits to interstate family/kin under an interstate travel authority.

## Key steps – interstate movement of a child occurs without permission

When DCJ learns there has been an interstate movement of a child without permission, DCJ and the funded service provider have important complementary roles.

- The DCJ principal officer writes to the funded service provider and requests they provide, within seven days, written information about:
  - » the circumstances that led to the interstate movement including key dates, residential address, school in which the child is enrolled, persons involved and
  - » the reasons why permission for the interstate movement wasn't obtained.
- The funded service provider provides information requested by the DCJ principal officer. Additionally the funded service provider provides information about how they are currently:
  - » supporting birth family contact, relationships and identity



- » maintaining support of the child and carer in the placement
- » supporting achievement of the child's permanency goal and
- » engaging with the child's Aboriginal family and community regarding this decision, clearly noting how these groups are actively supported to participate and their views.
- DCJ Interstate Liaison provides advice and support to the principal officer and nominated DCJ unit (as required).
- DCJ Commissioning and Planning provide advice to the nominated DCJ unit (as required).
- The funded service provider convenes an urgent interstate movement meeting, within 14 days, with the nominated DCJ unit and any other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within five business days (unless a different timeframe is agreed).
- An officer of the nominated DCJ unit with decision making delegation (grade nine or above) attends the meeting.
- The purpose of the interstate movement meeting is to:
  - » explore what case-specific, systemic or other issues brought about the interstate movement without permission
  - » consider any contractual or funding issues arising from the movement
  - » inform the funded service provider that funding (foster care package only) will temporarily cease because it has become an unauthorised arrangement
  - » consider whether any party has acted in breach of the Care Act, Child Protection (Working with Children) Act 2012, or other statute and
  - » discuss and record minimum requirements (including timeframes) for resolution.
- In some circumstances, the nominated DCJ unit convenes a legal consultation with the DCJ Child Law legal officer to obtain additional legal advice. For example, advice in relation to:
  - » issuing a direction under section 154(2)(b) or 232 or
  - » seeking a warrant under section 233.
- DCJ principal officer, having considered all of the information and advice, makes a decision to give, or decline, permission for the interstate movement of the child
  - » If permission is given, refer to 'Principal officer gives permission'
  - » If permission is not given, refer to 'Principal officer declines to give permission'
- In addition when permission is not given, the nominated DCJ unit convenes a follow-up interstate movement meeting with the funded service provider and other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within five business days (unless a different timeframe is agreed).
- The purpose of this meeting is to identify roles and responsibilities of each stakeholder, considering:
  - » how the funded service provider intends to address the minimum requirements for resolution
  - » what actions are prescribed by relevant legislation and regulations in the receiving jurisdiction
  - » what actions are to be taken by DCJ, arising from legal advice and
  - » what requests are to be made of the interstate child protection department under the Interstate Child Protection Protocol.



## Key steps – funded service provider becomes aware of ROSH

When a funded service provider receives information that indicates a child that has moved interstate is at ROSH, the funded service provider makes a report to:

- the statutory child protection authority in the interstate jurisdiction and
- the NSW Child Protection Helpline.

If a funded service provider receives information that indicates a child has moved interstate as a result of being forcibly abducted, the funded service provider immediately makes a report to:

- NSW Police and police in the interstate jurisdiction
- the statutory child protection authority in the interstate jurisdiction and
- the NSW Child Protection Helpline.

## Reviewable decisions

The decision by DCJ to give or decline permission for a proposed interstate movement of a child is not a reviewable decision (section 245).

# Roles of key stakeholders

<b>Aboriginal children and families as key decision makers</b>	Processes that are engaged early in the continuum of support, ensuring participation of children, families and communities in decisions and actions affecting them. See <a href="#">AFLDM Factsheet</a> for further information
<b>Aboriginal Community Controlled Mechanism</b>	Consists of a formal process established by a local Aboriginal community through their own processes to represent the interests of the community. They oversee decision-making processes affecting Aboriginal children and their families. See <a href="#">ACCM Factsheet</a> for further information.
<b>Aboriginal advocate</b>	Advocates on behalf of Aboriginal children and families promoting full enjoyment of their rights and active participation in all processes and decisions that affect them across the continuum of support
<b>Aboriginal Community Controlled Organisation</b>	<p>An Aboriginal Community Controlled Organisation that is accredited by the Office of the Children's Guardian to provide out-of-home care services to children and young people in NSW, including cultural planning and implementation</p> <p>Are recognised Aboriginal Community Controlled Organisations that have been identified by AbSec as suitable organisations to support and oversee cultural planning and implementation for Aboriginal children and young people in statutory care</p>
<b>Commissioning and Planning (C&amp;P)</b>	Improve service system capacity and capability to provide children, their parents and families/kin with quality services. They collect data in relation to performance of contracted services.
<b>Contract managers</b>	Work closely with funded service providers and other service providers to implement contractual arrangements and develop their capacity to deliver support services to children, their parents and families/kin
<b>Aboriginal permanency coordinators</b>	Have extensive knowledge about services provided locally in the service system. They act as a link between DCJ and funded service providers and other service providers, providing advice about service packages to achieve the permanency case plan goal. Aboriginal permanency coordinators are not assessors or decision makers and do not provide specialist practice advice. They are Permanency Support Program experts and provide advice and support to all stakeholders under the program. They oversee the minimum review periods under the Permanency Support Program between DCJ and funded service providers



**Child and Family District Units (CFDU)**

In each DCJ district, act as the key interface between funded service providers and other service providers and DCJ in relation to children by:

- coordinating referrals to these service providers to provide services for children, their parents, family/kin and carers
- supporting these service providers to administer case management
- exercising the powers and functions of PR (if the child is in OOHC)

CFDUs provide advice to funded service providers and other service providers regarding:

- operation of the Aboriginal Case Management Policy, Rules and Practice Guidance
- local district structure and operating models

CFDUs are also the point of contact for funded service providers and other service providers where there has been a significant change in relevant circumstances for the child, their parents and family/kin that requires review. They liaise with district C&P teams (including contract managers), permanency coordinators and local Community Services Centres casework teams when contacted by services providers about:

- providing information and data in relation to the achievement of case plan goals
- proposals to change a case plan goal
- notifying intention to cease case management and
- case management transfer

Where there is consent to share information, CFDUs can liaise directly with the Aboriginal Community Controlled Mechanism to notify:

- intention to transfer case management of an Aboriginal child to a non-Aboriginal funded service provider
- intention to transfer case management of an Aboriginal child to a location that is not their community of belonging
- a proposal to change case plan goal to long term care

**DCJ Community Services Centre casework teams**

Work collaboratively with service providers, including Aboriginal Community Controlled Mechanisms, when:

- conducting ongoing safety and risk assessment and re-assessment
- responding to new ROSH reports or
- there are ongoing court proceedings (until proceedings are finalised)

## Aboriginal child and family wellbeing

Aboriginal child wellbeing encompasses the social, emotional and cultural functioning of a child that promotes healthy development, resilience in developing and maintaining relationships and connections to culture. Practitioners work towards ensuring the lifelong wellbeing of Aboriginal children so that they can thrive with family and be raised strong in spirit and identity.

Aboriginal family wellbeing approaches respect the unique differences of Aboriginal families, strengthens and empowers families to prevent the need for intrusive intervention, and promotes wellbeing and stability of the whole family. It incorporates an understanding of the impact of trauma on the whole family, including intergenerational trauma and the broader service systems that respond to the needs of Aboriginal people who have experienced trauma.

## Aboriginal child placement principles

In applying the Aboriginal child placement principles, practitioners:

- prioritise and work to strengthen families to prevent Aboriginal children from being separated from their families and communities
- look to Aboriginal communities design and deliver the processes and supports that affect Aboriginal children and families in partnership with DCJ
- ensure the placement of Aboriginal children in need of care and protection is in accordance with the hierarchy established in the Care Act (section 13)
- ensure Aboriginal children and their families are supported to participate fully in all decisions and actions affecting them
- ensure Aboriginal children and young people are actively supported to preserve and enhance their connections with their family, community, culture and Country.

These principles are interdependent and interconnected. Casework practice reflects all of the above principles.

## Aboriginal Community Controlled Mechanisms

Aboriginal Community Controlled Mechanisms consist of a formal structure established by local Aboriginal communities through their own processes to represent the interests of their community. They are directly accountable to Aboriginal communities. These mechanisms provide oversight of decisions and actions affecting Aboriginal children, their families, and communities, and may encompass but are not limited to:

- Aboriginal local governance groups
- Aboriginal Community Controlled Organisations (ACCOs)



## Aboriginal Community Controlled Organisation

An Aboriginal Community Controlled Organisation (ACCO):

- is an independent, not-for-profit organisation, that is incorporated as an Aboriginal organisation
- has been initiated by, and is controlled and operated by Aboriginal people; thereby acknowledging the right of Aboriginal peoples to self-determination
- is based in a local Aboriginal community or communities
- is governed by an Aboriginal Board which is elected by members of the local Aboriginal community or communities where it is based; and decision making of the Board is determined by Aboriginal Board members
- delivers services that build strength and empowerment in Aboriginal communities and people.

## Aboriginal peak body

An Aboriginal Community Controlled Organisation advocating on behalf of Aboriginal stakeholders, including relevant local Aboriginal Community Controlled Organisations, and including the development of policy and systems to best meet the needs of Aboriginal communities. Within the NSW child and family sector, AbSec (the Aboriginal Child, Family and Community Care State Secretariat) is the recognised Aboriginal peak body. Within the legal sector, Aboriginal Legal Services NSWACT is the recognised Aboriginal peak body.

## Aboriginal family

The Aboriginal family system is distinct and consists of strong extended family and community structures rather than just the parents or immediate family alone. These structures are especially important to the wellbeing of Aboriginal people. Aboriginal children are the responsibility of the entire family and community and often there are significant members who are relied upon to play vital roles in raising and educating children. Aboriginal families are cohesive through the binding of multi-generational relatives (for example parents, grandparents, aunts, uncles, siblings and cousins) but this also extends to significant people who are connected through marriage, kinship systems, community ties and cultural obligations. Practitioners understand the complex system of these relationships to engage with each family and their unique perspective and context, enabling effective family finding and empowering these broad networks for the care of their children.

## Accredited Aboriginal Community Controlled Organisations

An Aboriginal Community Controlled Organisation is one that is accredited by the Office of the Children's Guardian to provide out-of-home care services to children and young people in NSW.



## Best interests principle

Practitioners recognise that all actions concerning the best interests of an Aboriginal child are paramount to ensuring their safety, where necessary. In doing so, practitioners consider the cultural rights of the child and their need to exercise such rights collectively with members of their family and community.<sup>3</sup> Consideration is given to the holistic rights of an Aboriginal child, including their rights to safety, their rights to live with family, their rights to access health, education and housing in order to reach their full potential. These rights can only be determined in partnership with Aboriginal families and communities, including them in all decisions about the care and protection of their children.

## Aboriginal and Torres Strait Islander principles

The Care Act (section 11-14) provides legislative guidance to ensuring the participation of Aboriginal children, families and communities in decisions and actions that may affect them and requires greater involvement and control of Aboriginal communities in the welfare and wellbeing of Aboriginal children and families.

## Culturally responsive case management

Culturally responsive case management is an inclusive approach that is respectful and understands the unique cultural perspectives and experiences of Aboriginal families and communities. It values self-determination and the individual dignity and rights of Aboriginal people.

Practitioners have an understanding of how their own values and expectations may impact on their decisions and how they work with Aboriginal children, their families and communities, including how they involve Aboriginal people in Aboriginal family-led decision making processes. Practitioners critically reflect on how they have included and represented Aboriginal culture into assessment and planning.

## Culturally embedded

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.

## Oversight

Oversight by Aboriginal Community Controlled Mechanisms aims to:

- improve compliance with the Aboriginal Case Management Policy and these Rules and Practice Guidance
- promote greater accountability in decision making and outcomes achieved for Aboriginal children and young people
- ensure the participation of Aboriginal children and young people, their families/kin in decision making by DCJ and service providers



- empower Aboriginal children and young people, their families/kin, and extended families, to set their own goals, priorities and action plans
- ensure implementation of the Aboriginal Case Management policy and these Rules and Practice Guidance
- achieve greater accountability in decision making and outcomes achieved for Aboriginal children and young people.

Oversight by Aboriginal Community Controlled Mechanisms includes:

- verifying that actions were taken to comply with these Rules and Practice Guidance and the extent of this compliance
- written recording of their view with respect to data and evidence on decisions affecting Aboriginal children and young people including with respect to care planning, case planning, case plan review, permanency and placement decisions and cultural planning
- providing input and feedback to DCJ and service providers in relation to local casework and case management processes, promoting greater validity in assessment and casework practice
- ensuring the provision of culturally informed, culturally responsive and culturally safe approaches to casework practice
- monitoring service system performance to promote best practice with Aboriginal children, families and communities.

## Participatory approaches

Participatory approaches are those that respect individuals and families as active agents in their own lives and seeks to engage with them to drive responses to identified challenges. Participatory approaches are inclusive, as opposed to exclusive in their engagement of individuals and families.

## Active efforts

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.

## Recognised Aboriginal Community Controlled Organisation

A recognised Aboriginal Community Controlled Organisation is one that has been identified by AbSec as a suitable organisation to support and oversee cultural planning and implementation for Aboriginal children and young people in statutory care. It meets the definition of an Aboriginal Community Controlled Organisation (see above), however may not be delivering out- of-home care or other child welfare services (for example, a local Aboriginal land council).



## Strengths-based, family-centred

Strengths-based, family-centred approaches are those that value Aboriginal cultural practices in family life and recognises the protective role of culture for ensuring the safety and wellbeing of Aboriginal children and young people. Practitioners draw upon the unique strengths of the whole family and engage the family as a partner through Aboriginal family-led decision making processes.

## Structured Decision Making®

A suite of tools used by DCJ to guide decision making about a child or young person's current safety and risk of future harm. The suite of tools used by DCJ is comprised of the Safety Assessment, Risk Assessment, Risk Reassessment, Restoration Assessment, and the Screening and Response Priority Tools.

## Trauma-informed practice

There is a greater chance of vulnerable Aboriginal children, families and communities having witnessed and experienced high levels of stress and trauma. Practitioners are mindful of the indicators and impacts of trauma, appreciating the context of Aboriginal families and communities including inter-generational trauma and understanding that a parent or child's presentation or behaviour may be an expression of trauma.

Culture is the lens through which we understand and attribute meaning to our experiences and environment, or select our responses. There may be some areas of cultural difference, for example, practitioners may be able to see particular behaviours in a particular cultural tradition. Connection to culture and community is an important part of development in itself and has been identified as a protective factor for children and young people.

Principles of trauma-informed practice emphasise the need to help both children and parents feel safe. This limits further experiences of trauma, and provides the space required to facilitate change. Relationships are critical to helping Aboriginal children and families feel safe, and are supported by an understanding of how trauma affects their thoughts, feelings and behaviours, as well as an understanding of their beliefs and values (culturally competent practice.) Trauma-informed practice empowers families to take control of, and responsibility for, their own healing and recovery, including for the care and protection of their children, facilitating changes that are more likely to be sustainable.<sup>4</sup>

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<sup>4</sup> Gray, P (2016) Trauma Informed Practice, AbSec State-wide Conference

# Legislative background

## NSW legislation

- [Children and Young Persons \(Care and Protection\) Act 1998](#) establishes the legislative framework providing child protection and out-of-home care services in NSW
- [Children and Young Persons \(Care and Protection\) Regulation 2022](#) forms part of the framework for providing OOHC services, particularly the need for providers to be accredited as designated agencies through the NSW Children's Guardian
- [Children's Court Act 1987](#) establishes roles and responsibilities of the Children's Court
- [Adoption Act 2000](#) is the legal framework for the adoption of children in NSW and (in conjunction with other legislation) those from overseas
- [Privacy and Personal Information Protection Act 1998](#) sets out requirements for the collection, storage, access and accuracy, use and disclosure of personal information
- [Health Records and Information Privacy Act 2002](#) sets out requirements of collection, storage, access and accuracy, use and disclosure of personal health information
- [Community Services \(Complaints, Review and Monitoring\) Act 1993](#) provides the Ombudsman with the power to conduct systemic reviews of the deaths of children at risk of harm or those in OOHC
- [Ombudsman Act 1974](#) sets out the role of the Ombudsman in monitoring and reviewing the provision of community services, overseeing allegations of reportable conduct and complaint handling
- [Guardianship Act 1987](#) sets out responsibilities, functions, orders and principles applied by the Guardianship Tribunal to appointing guardians for people with disabilities, including young people aged 16-17
- [Crimes Act 1990](#) defines criminal conduct
- [Coroners Act 1980](#) requires the Coroner or the Deputy Coroner to examine certain child deaths, including those of a child in OOHC and a child in respect of whom a report was made under Part 2 of Chapter 3 of the *Children and Young Persons (Care and Protection) Act 1998*
- [Victims Rights and Support Act 2013](#) A child who has experienced abuse may be eligible for compensation Victims Services NSW runs the scheme, which also helps victims in other ways, such as with counselling, support and information

## Commonwealth legislation

- [Privacy Act 1998](#) sets out the requirements for the collection, use and disclosure of personal information (including non-government agencies)
- [Family Law Act 1975](#) (section 69ZK) gives the Family Court of Australia and Federal Magistrates Court power to make decisions and make orders in respect of children; and covers disputes between persons with an interest in a child's care (usually parents) where the child is not necessarily 'at risk'

# Background

## Frameworks

- [NSW Practice Framework](#) – a framework that supports and guides the way in which DCJ work with, and makes decision about children, their parents and families/kin
- [NSW Quality Assurance Framework](#) – a framework that provides practitioners with access to reliable and comprehensive information in relation to outcomes for children in statutory OOHC
- [Funded Contract Management \(FCM\) Framework](#) – describes the way in which DCJ and funded service providers and other service providers manage their contractual relationship. It ensures that governance, financial management and service delivery mechanisms are in place so that services are delivered effectively and efficiently
- [Guiding principles for strengthening the participation of local Aboriginal community in child protection decision making](#) – guide the partnership between local Aboriginal communities and DCJ to improve participation in decision making, developed by Grandmother’s Against Removals and other stakeholders
- [Human Services Outcomes Framework](#) – provides a common set of population-level wellbeing outcomes and indicators for NSW Government and non-government agencies
- [NSW Therapeutic Care Framework](#) – a framework that guides service provision and works towards improving outcomes for children in statutory OOHC
- [Permanency Support Program \(PSP\)](#) - provides tailored services to vulnerable children so that they can grow up in stable, secure and loving homes. The Permanency Support Program supports safety, wellbeing and positive life outcomes for children and young people in the child protection and OOHC systems in NSW
- [Care and Protection Practice Framework](#) - outlining Our Mandate, Our Values, Our Principles, Our Skills, Our Knowledge, Our Culture, and Our Organisation

## Policies and instruments

- [Creating cultural connections for Aboriginal children and young people](#) – a reference guide for practitioners in cultural planning, keeping Aboriginal children connected to their families, communities, culture and Country
- [Creating meaningful aboriginal connections guide](#) – a reference guide for practitioners to consistently, effectively and sensitively work with Aboriginal children, families and communities, embedding principles of self-determination and participation through a cultural lens
- [NSW Charter of Rights for Children and Young People in Care](#) – outlines the general rights and responsibilities of every child and young person in OOHC These rights reflect those of any child. The *Children and Young Persons (Care and Protection) Act 1998* requires that these rights are supported by carers and practitioners
- [Caring for kids: A guide for foster, relative and kinship carers](#) – a carer guide with basic information about which decisions are made by the carer and which need to be made by the agency



- [NDIS interface](#) – guidelines for managing the interface between early intervention, child protection and OOHC with the NDIS
- [Raising them Strong: Support for Aboriginal kinship and foster carers](#) – a carer guide with information about topics such as health, education, grief and loss, family contact and navigating ‘the system’
- [Permanency Case Management Policy](#) – policy statement on how we achieve permanency for children and young people through case management
- [Permanency Case Management Policy Rules and Practice Guidance](#) – a guide on how the Permanency Support Program is delivered

## Standards

- [Care and Protection Practice Standards](#) – key expectations of DCJ practitioners and leaders in their work with children, their parents and families/kin
- [NSW Child Safe Standards for Permanent Care](#) – standards which support a dual accreditation process for agencies providing statutory OOHC and adoption services
- [NSW Practice Framework Standards](#) – guide in delivering skilled, evidence based practice to children, their families and communities in NSW to keep them safer, stronger, connected and able to reach their full potential.



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