



Office of the
Children's Guardian

Special Report under section 139(2) of the *Children's Guardian Act 2019*: **Family is Culture Review**

March 2022

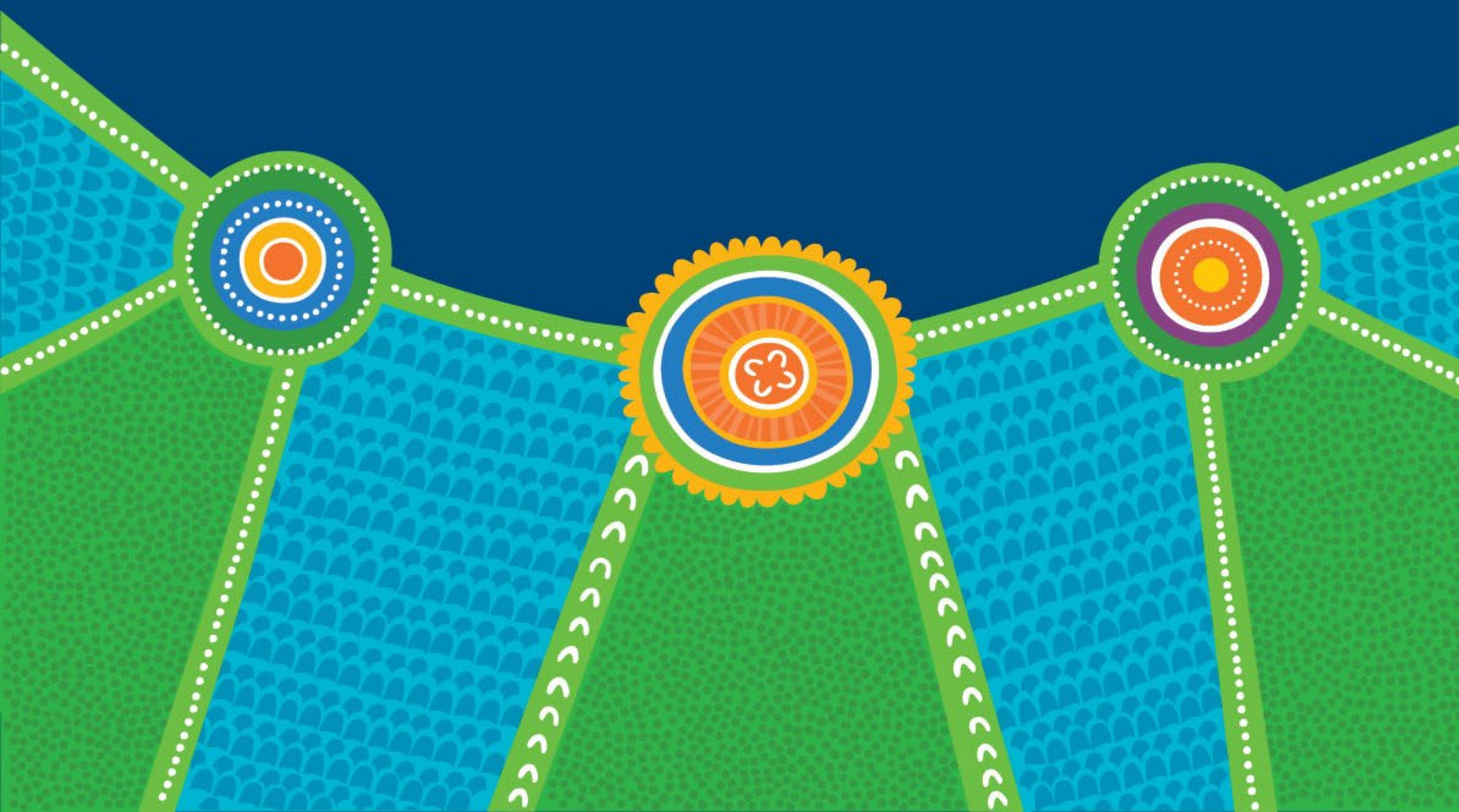


Table of Contents

Statement from the Family is Culture project team	3
Acknowledgment.....	4
Foreword	5
Summary	6
The Davis Review	15
Aboriginal engagement	15
Project management by Department of Communities and Justice	18
Minister's Review Priorities in Detail.....	21
Review 1. Implementation of the Aboriginal Case Management Policy.....	21
Review 2. Improvements to casework policies	30
Review 3. Process improvements to carer assessments and authorisations	35
Review 4. Operation of the new mandatory Alternative Dispute Resolution system	53
Review 5. Implementation of the Joint Protocol	61
Review 6. Effectiveness of internal complaint handling system within DCJ	68
Review 7. Improvements to public reporting by OCG.....	75
Attachment A – Areas for Additional Consideration	88
Attachment B – Aboriginal stakeholders consulted	93
Attachment C – OCG initiatives to support WWCC applicants.....	95
Attachment D – Table of Acronyms.....	98



Statement from the Family is Culture project team

We pay our respects to Aboriginal Elders past and present, who fought for survival, resisted colonisation and protected our families and culture for future generations.

We respect their invaluable wisdom, resilience and fearless leadership.

We are proud of the courage, resilience and strength of Aboriginal children and we are committed to supporting them to grow up strong, healthy and culturally connected.

We pay tribute to the critical role of Aboriginal parents, grandparents and kin who nurture, love and protect our children and families.

We appreciate the valuable contributions made by Aboriginal people working within the child protection system and their desire to make positive changes.

Aboriginal people's sovereignty and right to practice culture has never been ceded.

This Always was and Always will be Aboriginal Land.

Photography and artwork by Charmaine Mumbulla



Acknowledgment

I would like to express my gratitude for the work of Professor Megan Davis and her team. The *Family is Culture: Independent Review of Aboriginal Children and Young People in Out-of-Home Care in NSW* (the Davis Review) has made a tremendous impact on the strategic direction that the NSW Government seeks to adopt in child protection.

I would like to thank all stakeholders and partners who provided valuable input to inform this important piece of work. Extensive consultations were undertaken with a wide range of stakeholders from across government, non-government and the broader sector but most noteworthy, with Aboriginal communities.

To inform this review, my project team implemented an Aboriginal engagement strategy that reached community led organisations from across NSW to ensure that Aboriginal people had a strong voice. This review is stronger because of the knowledge and wisdom that those stakeholders generously shared.

I acknowledge the ever-increasing workload and pressures that our partners, stakeholders and community members face in this sector, particularly considering the difficult year that we have all experienced due to the COVID-19 pandemic.

Thank you to Dr Paul Gray, a Wiradjuri man from NSW who leads the Indigenous child protection hub at the University of Technology Sydney Jumbunna Institute of Indigenous Education and Research. Dr Gray's expertise ensured that our report is based on the best available national and international evidence available in this sector.

I also recognise the Office of the Children's Guardian (OCG) Family is Culture project team. They have worked tirelessly over the past nine months to produce this review. They have ensured that this work is based upon credible data, the best available evidence and the valuable perspective of our key stakeholders. Thank you to George, Sayali, Les, Lia, David and Ruth for your efforts and commitment to achieving better outcomes for Aboriginal children.

Our team would like to acknowledge the strong contribution made by Indigenous Cadets, Shakyra, Brittany and Leana who also provided strong contributions to this work.

Finally, I acknowledge the NSW Government for providing the opportunity to deliver this review. I look forward to supporting the sector to implement its findings.

It is incumbent upon all stakeholders working within this sector to deliver better outcomes for our First Nations children and families.

Richard Weston
Deputy Children's Guardian

Foreword

In NSW the over-representation of Aboriginal children in the child protection and out-of-home care (OOHC) system is an existential crisis that threatens the future of Aboriginal culture and community. For government and the bureaucracy, it is a significant challenge that requires resources and robust effort to solve.

The purpose of this report is to provide the Minister for Families and Communities, and Minister for Disability Services with:

- an update on the impact of recent reforms to the child protection system, and
- identify what further action needs to be taken for these reforms to be realised.

Overall, this review has found that the government's progress in relation to key reforms arising from the Davis Review are not meeting expectations of many stakeholders.

Attachment A of this report includes other areas for consideration as requested by the then Minister for Families, Communities and Disability Services that will enhance reform efforts.

This Special Report is a call for all players in the NSW child protection system to increase focus and resolve to improve outcomes for Aboriginal children and young people. This includes providing appropriate funding where needed to implement change.

Reducing the high numbers of Aboriginal children in the child protection system must be core business for leaders in government, the bureaucracy and mainstream OOHC services. This must be done in partnership with Aboriginal leadership, drawing on the wisdom and experience at community and regional levels and Aboriginal community-controlled services. Aboriginal community controlled services and the Aboriginal community must be supported to play bigger roles in mitigating the growing numbers of Aboriginal children in the child protection system.



Richard Weston
Deputy Children's Guardian

Summary

The Davis Review highlighted that the NSW child protection system is overly complex and difficult to navigate for Aboriginal children and families. The review emphasised a lack of cultural competency and trauma informed approaches, and deficiencies in leadership, accountability, transparency, and oversight. The review also reported an urgent need to ensure that Aboriginal people have a seat at the table for decision making that impacts on their own children, families, and communities.

Methodology

The OCG relied on the considerable evidence produced by the Davis Review and maintained a focus on identifying solutions to address barriers to reform. The engagement strategy for the report was guided by two clear objectives:

1. to understand whether stakeholders had started to witness the impact of change and reform or whether issues highlighted in the Davis Review remain ongoing, and
2. to identify opportunities to improve the implementation of reforms.

We gathered evidence from key Aboriginal stakeholders working in the sector through our Aboriginal engagement strategy. Stakeholders included: Aboriginal OOHHC providers, sector peaks including NSW Child, Family and Community Peak Aboriginal Corporation (AbSec) and the Australian Community Workers Association (ACWA), Aboriginal Child and Family Centres, the Aboriginal Legal Service, the Department of Communities and Justice (DCJ) State Aboriginal Reference Group, Waminda and Gamarada. We also consulted with non-Aboriginal OOHHC providers, DCJ, several directorates within the OCG, the CREATE Foundation, Legal Aid, and the Research Centre for Children and Families at the University of Sydney. Professor Paul Gray, a leading expert in Aboriginal child protection also provided strategic advice to the OCG through a formal consultancy arrangement.

We identify achievable and measurable actions to support each of our recommendations. It is hoped that this action-oriented approach will support the NSW Government to build further momentum in its response to the Davis Review.

Summary of Ministerial request and outcomes of this review

In September 2020, the then Minister for Families, Communities and Disability Services wrote to the Children's Guardian requesting a special report in accordance with *Section 139(2) of the Children's Guardian Act 2019* (CG Act). Seven review priorities were prescribed in the Minister's request to the OCG.

Review 1 Implementation of the Aboriginal Case Management Policy (ACMP) which aims to support Aboriginal people and communities to make decisions about the safety, welfare and wellbeing of their children, families, and communities.

This review has found that the ACMP cannot be implemented via existing resources as several DCJ Districts are struggling to handle existing caseloads. The seven-year

timeframe to fully rollout the policy has caused a high degree of frustration within the community and key Aboriginal stakeholders within the sector. There is a need for urgent action, better staff training and support and an injection of funding and resources to support a more effective implementation approach.

Review 2 Improvements to casework policies including screening and assessment processes.

This review has focused on analysing the methodology applied by the Office of the Senior Practitioner (OSP) to the review of all five key screening and assessment tools. We found that there is scope to increase focus on incorporating the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) and the ACMP in the design process, strengthen cultural competency of frontline staff, and the cultural strengths of Aboriginal families. The OCG also recommends that the OSP's Aboriginal engagement to inform enhancements to the tools should include Aboriginal voices and perspectives outside of DCJ's internal structures, including those of Aboriginal families that are impacted by the tools in practice.

Review 3 Process improvements to make carer assessments and authorisations more efficient, including better use of online and digital technology.

We found that there is a critical need for better family finding and case planning before a child is placed in OOHC and that potential Aboriginal carers had a higher chance of reaching full authorisation if they worked with an Aboriginal agency and were assessed by an Aboriginal assessor using a culturally appropriate tool. The review also emphasises the need for the OCG to continue work to implement strategies that enable Aboriginal applicants to effectively engage with the Working with Children Check (WWCC) process.

Review 4 Operation of the new mandatory Alternative Dispute Resolution (ADR) system including Family Group Conferences (FGC) for Aboriginal families.

This review highlights that DCJ needs to consider a wider range of ADR models that are culturally appropriate, and that ADR should be used very early in the child protection continuum as a preventative tool and to support better family finding. We also found that some Aboriginal families require better support during and following a family group conference to meet the goals identified in a family plan and that better caseworker training and support is critical to increase the effectiveness of the system.

Review 5 Implementation of the Joint Protocol to Reduce the Contact of Young People in Residential Out-of-Home Care with the Criminal Justice System.

The review has identified the need to strengthen the implementation of the Joint Protocol, enhance data collection, monitoring, and oversight, and to ensure that frontline staff have access to training, skill development and resources to improve cultural competence and trauma awareness.

Review 6 Effectiveness of the internal complaints handling system within DCJ for people involved in the child protection system.

As the NSW Ombudsman has an existing statutory function under Section 14 of the *Community Services (Complaints, Reviews and Monitoring) Act 1993* this review has had a limited focus on analysing whether the Pricewaterhouse Coopers (PwC) audit of the DCJ Enquiries, Feedback and Complaints Unit adequately addresses concerns raised by the Davis Review. This analysis has raised several concerns with the adequacy of the audit, and the review has found that it is critical for the NSW Ombudsman to conduct an independent review of DCJ's complaints handling system.

Review 7 Improvements to public reporting by the Office of the Children's Guardian on the accreditation of statutory OOHC agencies.

This review has identified that the OCG should release more information about the accreditation and monitoring framework used to regulate statutory OOHC agencies. The review has also found that the wider sector is interested in reviewing more information about the performance of OOHC agencies and has provided several recommendations for the OCG to consider when releasing this information.

Strategic priorities

While the OCG has been primarily focused on the Minister's seven review priorities, this work has highlighted fundamental issues that need to be urgently addressed to facilitate delivery of key reforms associated with the Davis Review. These are identified under four Strategic Priorities:



1. Strengthen Aboriginal-led services

Strong, well-functioning Aboriginal organisations in the child protection system are critical to achieving better front-line service outcomes for children and their families.

These encompass:

- OOHC services provided by ACCOs, and
- targeted early intervention services like those provided by the Aboriginal Child and Family Centres and the Nabu program run by Waminda (Nowra)

Aboriginal organisations are accountable to their local communities. Cultural knowledge, care and safety are central to their work. The design and development of their services are driven by community needs and aspirations.

ACCO's highlighted the need for funding packages to be tailored to the individual needs of children and more resources to provide families with early intervention support, and to undertake critical family finding and restoration work. ACCO's also emphasised that strengthening capacity of existing services and growing the sector should be underpinned by business planning and investment to ensure sustainability of the ACCO sector.

The new Closing the Gap (CTG) agreement incorporates four priority reform areas for joint national action that change the way governments work to accelerate improvements in the lives of Aboriginal people. Priority One is focused on formal partnerships with shared-decision making. The two types of partnership under CTG are 'policy partnerships' and 'place-based partnerships'.

Applying these two forms of partnership in the NSW child protection system means a greater role for AbSec in the policy space and for Aboriginal services including ACCO's at the regional and community level in place-based arrangements. The key elements of these formal partnerships are outlined in chapter 6 of the CTG agreement and should now shape the template for all agreements between DCJ and Aboriginal organisations.

The new CTG agreement that the NSW government has signed up to makes explicit the intent that partnerships with Aboriginal organisations should reflect the principles and spirit of the CTG agreement at all levels.

Aboriginal services should lead the work to support Aboriginal children and families in communities and these organisations must be supported by DCJ with investment, resources, and planning. A partnership governed by the CTG principles, will enable DCJ and Aboriginal organisations to leverage community knowledge, identify appropriate needs, vulnerabilities, and support systems and achieve better decision-making at the local level.

2. Strengthen governance and oversight

There is a need for stronger governance and more effective oversight of key reforms arising from the Davis Review. Currently, there is a lack of clarity regarding the government's handling of recommendations that are unviable, falling behind or not being managed well. There is also no clear strategy for implementing key reforms in sequence, as some recommendations need to be delivered before others can commence.

While no organisation has a clear brief to provide independent oversight of these critical reforms, the NSW Ombudsman has the powers to do so under the *Community Services (Complaints, Review and Monitoring) Act 1993*. The Government could explore if this legislation provides an appropriate vehicle for the kind of oversight stakeholders are demanding, or if the Deputy Children's Guardian

remit should be strengthened and supported by existing or new legislation, to have independent oversight of reforms.

There are two clear future opportunities to consider legislative change to strengthen the role of the Deputy Children's Guardian:

- Review of the *Children's Guardian Act 2019* planned in 2022
- Review of the *Children and Young Persons (Care and Protection) Act 1998* (Care Act) due to commence in 2024

3. Leverage Aboriginal family and community strengths

A common theme from consultations was that the child protection system has a deficit focus and fails to recognise the strengths of Aboriginal families, communities, and services.

For thousands of years prior to European settlement, Aboriginal people existed under a cultural system that covered all aspects of human existence – social relationships, spiritual connection to country, a creation story, and the sharing of knowledge from one generation to the next that ensured the survival of Aboriginal people across millennia. The cultural connections Aboriginal people have to each other, the system of reciprocity that exists in communities and spiritual connections to country cannot be replicated in government policy or services, but it can be supported and enabled by the Minister and the government.

DCJ must recognise and legitimise diverse models of care enabling children to maintain connection with family, community, and country. Children often enter care with limited information about their families. Effective family finding is often not conducted, and Aboriginal models of care are not recognised, which leads to children being placed off Country. Greater flexibility must be applied when considering a child's wider kinship network.

There is a strong body of evidence demonstrating that Aboriginal-led early intervention programs that are grounded in culture and community have an increased likelihood of being successful. Aboriginal Child and Family Centres established under CTG are an effective model for ensuring strong families. The OCG engaged with two of nine Aboriginal Child and Family Centres. These Centres have strong relationships with their communities that enables them to connect to community knowledge, reach out to families and children that are vulnerable, and provide them with the support they need.

Aboriginal Child and Family Centres were established to provide a mix of culturally safe services and support for Aboriginal families with children aged 0-8 years. The services delivered include early childhood education and care, parent and family support, maternal and child health and adult education opportunities. These services are critical for the early detection of development issues, provision of cultural care to ensure children can remain grounded in culture and build strong cultural identities. These services can also support children and families dealing with complex trauma.

They provide families a soft-entry point for wrap-around services to address vulnerabilities.

SNAICC - National Voice for our Children has also recently received funding from the Commonwealth to develop a community-controlled backbone service model to assist the development of Aboriginal and Torres Strait Islander early years services.

Aboriginal Community Controlled Organisations (ACCOs) like Waminda have been successful in providing children, families, and communities with effective support. Waminda emphasised that culture is the foundation for all their work. Their strong connection to their local community ensures that Waminda's services and programs are tailored to meet the needs of their community. The Nabu program was developed by Waminda following their withdrawal from the Functional Family Therapy (FFT) model (introduced from the United States). Waminda could not support the FFT because it did not align with Aboriginal cultural values and community needs and was designed for a different cultural group. The Nabu program has been producing meaningful results and funding for this program has been secured through to 2024. An evaluation was due to be completed by DCJ in June 2021.

Aboriginal designed, developed and delivered approaches are drawn from Aboriginal knowledge systems that keep children and young people safe and connected to their culture and identity. These cannot be replicated by mainstream services or by importing overseas models and trying to adapt them for Aboriginal people. Our communities and Aboriginal services have the capability to design effective cultural models that work.

More place-based Aboriginal cultural models could be developed through government support including growing the ACCO sector with sustainable investment.

4. A stronger Aboriginal focus for regulation of the sector

At present, the Deputy Children's Guardian oversees the OCG's regulatory functions in OOHC Regulation and Child Safe Organisations. The Deputy Children's Guardian provides cultural leadership across the organisation to support changes to internal practice to work more effectively with Aboriginal people, communities, and organisations.

Achieving better outcomes for Aboriginal children is embedded in the OCG's regulation of OOHC. Over time, the OCG will work with the sector to drive changes that ensure the needs of Aboriginal children and families are a key part of agency performance monitoring.

The OCG is currently consulting with the OOHC sector to review its monitoring and accreditation functions and includes specific proposals and questions about more effective ways that statutory OOHC agencies can implement the ATSICPP and the ACMP.

The WWCC Scheme will continue to review and implement new strategies to improve engagement with Aboriginal applicants and ensure that they can effectively engage with the WWCC process.

The OCG will also work with DCJ to develop a Child Safe Action Plan to include cultural safety and respect for cultural and social difference when providing child-related services.

Program Logic for Reforms

The OCG has developed a Program Logic that encompasses urgent key actions that are likely to make the most significant positive impact on delivery of the Minister's seven review priorities. These actions have been verified and tested with key Aboriginal stakeholders, government agencies, peak bodies and the non-government service delivery sector to ensure that they are achievable. Four key principles have been identified to guide the government and sector approach to the reforms:

1. **Strong Leadership** – The Davis Review and feedback via our engagement emphasised the need for strong accountability, oversight and leadership to effectively drive reform. It will be important for the sector and government to work in a cohesive way and to ensure that efforts are aligned to clear and measurable objectives.
2. **Eliminating Ritualism** – The Davis Review highlighted regulatory ritualism as a fundamental issue to be addressed in the child protection and OOHC sector. We must acknowledge that business as usual approaches are not working effectively in response to the needs of vulnerable Aboriginal children and families.
3. **Cultural Reform** – The vast majority of key reforms rely heavily on the direct engagement of Aboriginal communities in the delivery of new ways of doing business. Government agencies and all stakeholders need to work towards delivering a child protection and OOHC system that embeds Aboriginal culture and leverages Aboriginal people's collective knowledge, wisdom and strengths.
4. **Self-Determination** – An ideal vision of success is a child protection and OOHC system that is designed, delivered and measured against the goals, vision and ambitions of Aboriginal communities, as determined by Aboriginal people, not government. Self-determination goes beyond participatory models and will require the government to relinquish control of important elements of policy and practice that continue to drive high numbers of Aboriginal children and families into the system. The goal is to support Aboriginal children to thrive by being connected to strong families, their culture and country.

Key Actions

Aboriginal Case Management Policy	Screening and Risk Assessments	Carers Assessments	Alternate Dispute Resolution	Joint Protocol	DCJ Aboriginal Complaints Handling	OCG Public Reporting
<p>Prioritise ACCM's urgently as a critical enabler</p> <p>Establish Independent oversight to strengthen governance and accountability</p> <p>Allocate targeted funding to DCJ Districts via an evidence-based formula</p> <p>Invest in best practice frontline guidelines and tools to enable responsive service delivery</p> <p>Invest in nationally recognised training to develop and sustain a dynamic, trauma informed workforce</p>	<p>Engage Aboriginal experts in the design and delivery of responsive screening and risk assessment tools</p> <p>Utilise the DCG Aboriginal Reference Group for knowledge and expertise - to co-design effective frontline casework tools that are culturally sound</p> <p>Enable the Office of the Senior Practitioner to develop cutting edge, innovative guidelines and practice frameworks underpinned by the five elements of the ATSICPP</p>	<p>Ensure that all Practitioners apply the ATSICPP to facilitate effective family finding for Aboriginal children</p> <p>Resource ACCO's to undertake effective Aboriginal kinship/family finding options</p> <p>Recruit and support Aboriginal Assessors to play a lead role in sourcing Aboriginal carers</p> <p>Reform internal DCJ policies that adversely impact Aboriginal kinship carers</p>	<p>Modify the FGC model to be culturally attuned to the needs of Aboriginal children and families</p> <p>Expand application of ADR models across the Child Protection Continuum, particularly as early intervention option</p> <p>Deliver tailored support and follow up to Aboriginal children and families engaged in FGC's</p> <p>Establish a trauma informed and culturally responsive workforce</p> <p>Enhance data collection</p>	<p>Establish Independent oversight to strengthen governance and accountability</p> <p>Capture high quality, credible data to enable effective performance monitoring</p> <p>Establish a trauma informed, culturally responsive workforce</p> <p>Deliver a State-wide Implementation Strategy, supported by nine Local Implementation Plans within each ITC Hub with clear stakeholder accountabilities</p>	<p>The NSW Ombudsman should conduct an independent review of the Department of Communities and Justice Internal Complaints Handling System - as it pertains to the experience of Aboriginal complainants</p> <p>DCJ should implement reforms outlined in the pending PwC review, to ensure that complaints handling mechanisms are high functioning, responsive and efficient for Aboriginal and Torres Strait Islander complainants</p>	<p>Increase public access to information about OCG's accreditation and monitoring framework</p> <p>Release targeted information about regulatory responses undertaken to encourage compliance or address non-compliance by OOH agencies</p> <p>Deliver regular reports on the sector, including from an Aboriginal and Torres Strait Islander perspective</p> <p>Investigate the viability of releasing report cards on individual agency performance</p>

Principles

Strong Leadership

Eliminating Ritualism

Cultural Reform

Self Determination

Outcomes

Effective governance, leadership and oversight that delivers outcomes aligned to community ambitions

Meaningful data collection that focuses on performance-based outcomes and time frames

Implementation plans that are well resourced, supported and mobilised to deliver timely results

Transparent practices that engage Aboriginal communities at a regional and local level

Effective Aboriginal Community-Controlled Mechanisms to support sustainability

The Deputy Children's Guardian role

The Deputy Children's Guardian (DCG) position was established within the OCG as part of the NSW government's response to the Davis Review. The purpose of the DCG role is to contribute to strengthening the child protection system's accountability for Aboriginal children in care so that the ATSICPP is upheld and better care outcomes are achieved, this includes helping to break the cycle of over-representation of Aboriginal children in OOHC. Over time this may include changes to legislation to provide the DCG with greater leverage in the child protection system with regards to Aboriginal children and young people.

The DCG is developing networks with Aboriginal communities across NSW which are important for supporting system reform and improved outcomes for children and young people. It will be critical for Aboriginal community leadership to be engaged in the conversation about reform of the child protection system. Without communities becoming more involved in supporting vulnerable families and keeping service providers accountable it will be very difficult to reduce the over representation of Aboriginal children and young people in OOHC.

The DCG is also a member of the Aboriginal Knowledge Circle that provides advice on reforms directly to the Minister for Families and Communities, and Minister for Disability Services.

The following key focus areas were identified to support effective reform:

- **Strengthening independent oversight** of Family is Culture reforms to enhance accountability and to ensure that targeted efforts align with priorities for Aboriginal children and young people.
- **Providing strong leadership to the sector** including articulating a vision for change
- **Encouraging quality engagement** with **Aboriginal** stakeholders to support self-determination and to elevate the voices of Aboriginal children and young people, and their families encountering the child protection system
- **Influencing cultural change** across key sectors to strengthen cultural competency and trauma awareness in the way that policies and programs are designed and delivered
- **Enhancing OCG regulatory functions** by embedding the ATSICPP and ACMP into OOHC accreditation and monitoring functions
- **Publishing papers** on priority issues in the OOHC sector that impact Aboriginal children and young people and families

During consultations many key stakeholders advocated for the DCG to have a mandate across the child protection sector, including a heavier focus on early intervention measures. This is currently outside the scope of the DCG position unless legislative change is made. Given the scale of the over representation of Aboriginal children in OOHC the government may consider specific powers in relation to Aboriginal children and young people for the DCG or consider establishing a separate Aboriginal Children's Commissioner position with separate or complementary functions to the OCG.

The Davis Review

The Family is Culture, Independent Review of Aboriginal Children and Young People in OOHC Report was published in October 2019 in response to political advocacy and campaigning by Aboriginal grandmothers in NSW. Grandmothers Against Removal (GMAR) were concerned about the escalating numbers of Aboriginal children in OOHC, the impact of trauma on children and families and the high proportion of children that were losing their connection to their families, country and culture.

The Davis Review included a detailed examination of 1,144 Aboriginal children who entered care in NSW between 1 July 2015 and 30 June 2016. The Review concluded that there is an urgent need to lift the capacity of the child protection system to better meet the needs of Aboriginal children and families. In summary, the Review determined that:

- the NSW child protection system is too complex, very difficult to understand and scrutinise
- system initiatives likely to reduce over-representation of Aboriginal children have to date been poorly implemented, including the ACMP, the Joint Protocol and FGC
- public accountability, oversight, and transparency by key players in the system is weak
- there is insufficient focus on early intervention for Aboriginal families, including limited opportunities for families to participate in decisions that impact them and their children
- case worker practice is poor and inconsistent and often fails to consider less intrusive alternatives to removal, and
- the overall system and individuals working within the system lack cultural competency and an understanding of intergenerational trauma and self-determination.

Two years on from the review, and over representation of Aboriginal children and young people in the child protection system remains a national crisis.

On 30 June 2021, 43% (6,829) of the children and young people in out-of-home care in NSW were Aboriginal, an increase in both number and percentage from 30 June 2020 (41.4%, or 6,688 Aboriginal children and young people) ([NSW Budget Estimates 2020-21](#)).

Nationally NSW accounts for one-third of Aboriginal children in care.

Aboriginal engagement

The OCG implemented a comprehensive Aboriginal Stakeholder Engagement Strategy, aimed at capturing the voices of Aboriginal communities across NSW. We aimed to capture perspectives from a broad range of regional, urban, and remote communities across the state.

The Aboriginal engagement strategy was led in a culturally safe way, using a trauma informed approach, with the Deputy Children's Guardian and experienced Aboriginal OCG staff leading the engagements.

Targeted consultations were held to test and validate preliminary findings from the evidence gathered to ensure the OCG's report accurately represented the lived experiences of Aboriginal children and families encountering the child protection and OOHC system. There were some limitations to contact and travel due to the COVID-19 pandemic and so consultations were undertaken online via Microsoft Teams. A list of stakeholders consulted and a map of the areas that were covered is at **Attachment B**.

Consultations focused on the seven review priorities and feedback has been incorporated into the relevant sections of this review. Some common concerns were raised about the barriers that continue to affect the ability to effectively deliver services to Aboriginal children and their families. There is a perceived lack of progress made in relation to important recommendations made by the Davis Review. Many of the issues reported in the Davis Review remain unresolved and this was both frustrating and disheartening. Ultimately, stakeholders validated the findings of the Davis Review and stated that they continue to encounter these issues in their day-to-day frontline practice.

Stakeholders identified that the barriers they continue to face in delivering services are issues that should be addressed within the ATSICPP. There is a need for a stronger approach to the implementation of the ATSICPP and a greater accountability of these principles through government departments, including DCJ and the OCG.

Further themes that were identified include:

Lack of effective targeted early intervention

Stakeholders consistently identified that Aboriginal families are not provided with appropriate and timely early intervention services. Often, families are not aware of concerns being raised about them until there are multiple reports to DCJ and potential removal decisions being considered. Aboriginal organisations that provide targeted early intervention, are also often not made aware of concerns by DCJ and are therefore unable to provide support and assistance to families. Stakeholders identified that they are in a unique position to provide effective early intervention support due to their knowledge of the community, their expertise as Aboriginal practitioners and their ability to advocate on behalf of Aboriginal families.

Connection to culture is critical

Stakeholders identified that culture must be central when delivering services to Aboriginal families. Culture is often disregarded in the sector and a cultural lens that enables cultural practice, is not effectively applied to the child protection and OOHC systems. Stakeholders placed emphasis on the strength of practicing culture, and it

was acknowledged and regarded, as a solution for the ongoing impact and trauma of colonisation.

Representatives from Waminda emphasised that they centre their service on decolonising practice, by honouring their language and the matriarchs of their community to support cultural continuity. Winanga-Li and Walanbaa Dhurralli stated:

“If you create a good environment to support a child, it reflects back on the community and that it was important for children to be strong in culture”. Further stating that “exposing kids to culture every day will lead to (the) normalisation of culture and would strengthen the child’s identity.”

Stakeholders identified that there is a lack of quality cultural care planning in the OOH sector, with limited meaningful content included in plans. Stakeholders also expressed disappointment at the slow transfer of Aboriginal children to Aboriginal OOH agencies and felt that there was no real commitment to this from NSW Government. On a positive note, the OCG is encouraged by the recent announcement from SNAICC and Life Without Barriers who have commenced a new partnership following a commitment from Life Without Barriers, to transfer its OOH services for Aboriginal and Torres Strait Islander children to Aboriginal and Torres Strait Islander community control within 10 years.

Aboriginal families need support to navigate the child protection system

Stakeholders believe that the current child protection system works against Aboriginal families and does not allow for meaningful engagement or sufficient consideration of culture. Stakeholders reported that they often play an informal advocacy role for families to help them navigate the system and to make them aware of critical processes taking place and their rights within the system. This is an inequitable system where some regions have better access to services than others. Some Aboriginal families are disadvantaged by their inability to engage effectively with DCJ. One agency highlighted that it is clearly apparent when a family has engaged with DCJ with Aboriginal-led support and when they haven’t.

Community consultation is essential when delivering services

Stakeholders consistently stated that each Aboriginal community has its own individual needs, and it is not always possible to replicate services from region to region. Communities should be involved and consulted on their needs and requirements and this should extend to Aboriginal community led organisations and ACCO’s. Waminda’s Nabu program, which focuses on intensive family support is an example of this approach. The successful program was developed in response to community feedback and data which identified a previous government-based approach was not working and that the service needed to engage differently and have a more tailored approach. Aboriginal staff members also spoke about being accountable to their communities and the responsibility that comes with this when dealing with the department on contentious issues.

Aboriginal children should be placed on Country with Aboriginal family and kin

Stakeholders provided multiple examples of Aboriginal children being placed off Country with non-Aboriginal carers unnecessarily. There was a lack of effective family finding, as well as poor communication between DCJ and Aboriginal stakeholders who could have assisted in identifying suitable placements and carers. Conversations were either not held or held within limited timeframes which didn't allow agencies to properly investigate a situation or find an alternative option to off country, non-Aboriginal based care. Stakeholders also identified that not enough emphasis is placed on exploring meaningful restoration options and birth family contact to support restoration outcomes. This needs to be better funded within the OOH sector to ensure that stakeholders are committed to returning Aboriginal children to their families when it is safe and appropriate to do so.

Project management by Department of Communities and Justice

Under existing arrangements, the Aboriginal Strategy, Policy and Reform Team (a team of subject matter experts who sit within the Aboriginal Strategy Coordination and Evaluation Unit) is responsible for overall project management of the DCJ response to the Davis Review.

A central project team of four staff (substantively six) is responsible for overall project management and reporting to capture the department's progress in response to the Davis Review's recommendations. This team also provides significant support to the department's work under CTG, further stretching their resources.

There are currently 75 distinct projects being implemented in response to 100 of the total 125 recommendations that were made by Professor Davis. The remaining 25 recommendations are linked to a statutory review of the Care Act, due to commence in 2024. A separate review of the CG Act will commence in 2022.

These projects are being managed by 17 separate business centres across DCJ, with input from hundreds of staff across the state, demonstrating the volume and complexity of the project management task at hand.

Currently DCJ staff use an information management system called Smartsheet to manage project reporting. This system is web-based and accessible to users across multiple business units within DCJ and some external agencies. Project staff create a secure password to access the reporting software.

Project leads are responsible for completing quarterly project management updates on the system. Once an update is completed, it is then 'submitted for approval' and an automated email is sent to the Director to review and endorse the reporting information. Once the Director approves the information, the system generates a final automated approval for the relevant Executive Director. The current reporting template requires project leads to report on the following:

- Progress update (for internal DCJ management only)
- Public update (information to be shared publicly)
- Achievements and good news stories
- Community and stakeholder engagement activities
- Risk management issues
- Updates on the status of key project milestones

While this process is sound in terms of information exchanges, approval pathways and record keeping, the central project management unit has confirmed that 33% of current reporting was late and required follow up, remedial action and support. While the OCG understands the role of the project team in collating and reporting implementation progress, their function could be strengthened if they had authority to hold business units accountable for their progress against recommendations.

The current system does not seem to effectively prioritise projects. Some projects cannot be progressed or completed before others, yet staff must report on all projects simultaneously. A more strategic approach would involve DCJ identifying priority or short-term projects that are critical, and resources could be directed towards those initiatives. This approach would also result in better project management practice and increased capacity for DCJ to release dynamic public reporting, rather than high level reports on all 125 recommendations and 75 project initiatives in each quarterly report.

Many stakeholders said that current public reporting on the Davis Review is 'too high level' and 'somewhat superficial'. Stakeholders suggested that DCJ provide more detailed reports on a narrower number of initiatives which would enhance public understanding of the government's progress in relation to the Davis Review.

The OCG recommends that DCJ focus on the following priorities:

- Ensure that the Aboriginal Strategy, Policy and Reform Team has adequate staffing, resources and authority to ensure that reporting information is received on time and contains accurate, meaningful and relevant information
- Undertake analysis to determine projects that are a priority in terms of urgency, importance, dependencies, sequencing and impact
- Report on a smaller number of projects at any one time, but with more detailed and meaningful information
- Prioritise funding, resources and staffing to priority projects
- Ensure that the Aboriginal Strategy, Policy and Reform Team has strong support from DCJ executive leadership to strengthen accountability of project management compliance and reporting.

Stakeholders have called for stronger independent oversight and transparency concerning public reporting associated with the Davis Review. Under existing arrangements, timeframes are determined by DCJ and appear to be regularly modified or pushed back for a variety of reasons, (most recently attributable to the COVID-19 pandemic or DCJ's recent restructure).

Introducing independent oversight, such as a defined role for the Deputy Children's Guardian could enhance accountability, transparency and public confidence. This approach would also ensure that priority projects are intensively monitored and tracked, and that urgent remedial action is undertaken when initiatives fall behind or require adjustment.

Minister's Review Priorities in Detail

Review 1.

Implementation of the Aboriginal Case Management Policy which aims to support Aboriginal people to make decisions about the safety, welfare and wellbeing of their children, families and communities.

Overview

In early 2017, AbSec were engaged by DCJ to lead the development of the ACMP¹. AbSec facilitated 12 targeted forums throughout the design phase, engaging more than 300 individuals from across NSW.

In October 2019, DCJ published the ACMP on their website, publicly announcing that the policy was officially mobilised. The DCJ website states that the purpose of the ACMP is to:

Promote an integrated case management approach that is tailored to the needs of Aboriginal children and families, that commences early in the continuum of support and that empowers and supports families and communities to reduce the incidence of harm, addressing identified risks and thereby supporting Aboriginal children and young people to thrive.

Two years on, the ACMP is still not fully functional in any DCJ District. Some DCJ Districts are still in a planning phase and considering how to establish ACCMs which are a fundamental element of the policy.

In February 2020, AbSec were engaged for a second time to undertake a DCJ District readiness and capability assessment. They reported that DCJ Districts were calling for more staff training, stronger practical casework guidelines and resources as well as additional funding to assist them with the roll out of the ACMP. Despite these findings, a response from DCJ to AbSec, (dated 7 September 2020) confirmed that there were no additional resources being allocated to support the roll out across DCJ Districts and that the DCJ Executive were “*optimistic that implementation could proceed, and the ACMP be delivered, within existing resources*”.

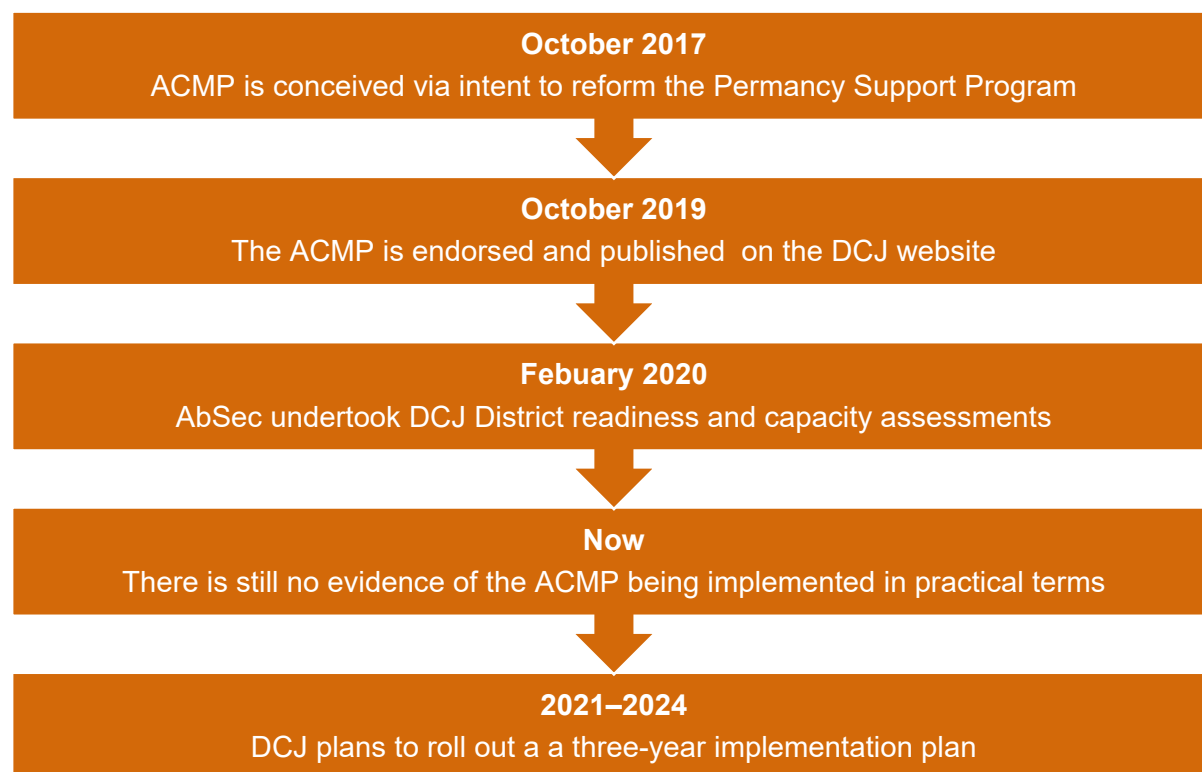
Recommendation 81 of the Davis Review noted: *The Department of Communities and Justice should actively fund and support the implementation of the Aboriginal Case Management Policy and the Aboriginal Case Management Rules and Practice Guide and report publicly on its activity in this domain.* We believe it is difficult for DCJ to deliver this recommendation without a commitment to ‘active funding and support’. There is also no evidence of public reporting mechanisms to demonstrate DCJ’s activity in this domain.

Concerningly, a range of stakeholders, including key DCJ staff and the DCJ’s Aboriginal Reference Group have consistently reported that the ACMP cannot be

¹ AbSec Discussion Paper - Development of the Aboriginal Case Management Policy and Guidelines Discussion Paper II, 2017

implemented with existing resources and that many DCJ Districts are already struggling to handle existing caseloads.

Graphic 1. ACMP Implementation timeline



Graphic 1 illustrates that implementation efforts have lacked urgency. Feedback from stakeholders consistently expressed a high degree of frustration with the rollout of the ACMP.

- DCJ reported their intent to rollout the ACMP over a three-year period from 1 September 2021, that would result in a seven-year timeframe from the point the policy was initiated - to the point when it takes effect.
- The pace of implementation does not match the scale of the challenge that Aboriginal children and families are facing.
- There is a need for more urgency, better staff training and support and an injection of targeted funding to support a more effective and genuine implementation of this initiative.

Core elements of the ACMP

There are four key elements of the ACMP, all critical to the success of the policy:

1. Aboriginal Community Controlled Mechanisms (ACCMs)

ACCMs are designed to ensure that local casework practices are culturally appropriate and effective at meeting the needs of Aboriginal children and families². ACCMs are designed to ensure that casework is delivered in a way that supports self-determination, adheres to the ATSICPP and supports the practical implementation of the ACMP. These mechanisms provide an opportunity for Aboriginal people to have a direct say in the way that services are provided to them.

2. Proactive Efforts Standard

Proactive efforts are purposeful, targeted and timely efforts that are supported by legislation, effective policy design and practices that support the safety and wellbeing of Aboriginal and Torres Strait Islander children. The DCJ ACMP Rules and Practice Guide prescribes the following examples of proactive efforts for DCJ caseworkers:

- establishing soft entry points via 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 childcare
- using existing relationships and networks within the community to strengthen access³

3. Aboriginal Family Led Decision Making

Aboriginal Family-led Decision Making (AFLDM) is a core element of the ACMP. It outlines a set of processes that are designed to allow families to have meaningful participation within case planning. The ACMP prescribes that AFLDM processes should occur at key points of the case management continuum, including assessment, development and review of Family Action Plans for Change (preservation and restoration) and OOH case plans⁴. The existence of stronger, sustainable Aboriginal community networks (via ACCMs) would support frontline caseworkers to facilitate better AFLDM outcomes.

4. Aboriginal Family Led Assessments

Aboriginal Family Led Assessments require frontline caseworkers to work from the perspectives of Aboriginal families to identify a range of practical, educational, therapeutic and advocacy supports. There is a strong emphasis on assessing each family's 'strengths and needs', to formulate effective case plans, goals and support strategies. Caseworkers are required to use assessment models sensitively to

² DCJ Aboriginal Community Controlled Mechanisms Fact Sheet, 2020

³ DCJ ACMP Rules and Practice Guidance, March 2019

⁴ DCJ Aboriginal Family Led Decision Making Factsheet

prioritise cultural factors. The ACMP Rules and Practice Guide prescribes that effective ‘strengths and needs’ assessments should typically include:

- assessing the domains of parent and child functioning, from a culturally informed perspective
- recognising the impact of past trauma, including family and intergenerational trauma
- preserving connections to family, community, culture and country
- recognising family structures and environments including Aboriginal child rearing practices
- understanding family member’s views and values, worries, strengths, needs and future aspirations⁵.

This review has found limited evidence of these elements being implemented at scale. Each element relies on the Aboriginal community participating in developing and delivering strategies jointly with DCJ Districts. It also requires DCJ Districts to take deliberate action to engage with the Aboriginal community. Actions need to be respectful and consistent, to weather the early forming and storming stages where the legacy of Stolen Generations and the high rate of contemporary removal of Aboriginal children often surface in initial meetings and gatherings.

The absence of ACCMs is stifling the ACMP and preventing caseworkers from effectively engaging local Aboriginal communities. The ACMP relies heavily on Aboriginal children and families playing an active role in case management processes. It will be critical for DCJ to prioritise the formation of these mechanisms and to build trust within communities before the ACMP can be fully realised. It is also important to note that this work (relationship building) needs to have an ongoing and sustained focus, not be a short-term component of the roll out of the policy.

Review priorities

The table below depicts key review priorities that the OCG devised in response to the Minister’s request for a review of the ACMP.

Priority	Rationale
Analysis of DCJ’s implementation efforts since the publication of the ACMP on their website in October 2019	<p>The ACMP was conceived four years ago and despite the policy being endorsed and published on the DCJ website in October 2019⁶, there is limited evidence of it being applied in DCJ Districts.</p> <p>Publication and promotion of the ACMP on the DCJ website creates an impression that the ACMP is an integrated part of DCJ current practice when it is not</p>

5 DCJ ACMP Rules and Practice Guidance, March 2019

6 DCJ official response to OCG information request, June 2021

	There is stakeholder frustration about the lack of urgency and the unrealistic expectation that the policy can be successfully implemented without an increase in resources within DCJ Districts.
Analysis of DCJ's leadership, accountability and oversight mechanisms	Current leadership, accountability and oversight mechanisms have failed to support effective, timely or accountable implementation of the ACMP. Critical milestones have continued to be pushed back and DCJ Districts have not been adequately supported or resourced to roll out the policy.
Identifying clear focus areas to strengthen ACMP Implementation	The final section of this chapter includes key reform actions to mobilise the ACMP. These need to be acted on swiftly.

Analysis of key initiatives

The table below provides an overview of progress made regarding recent initiatives being undertaken to support roll out of the ACMP.

Status:

- Completed
- On-track
- Remedial action required
- Urgent action required

Initiative	Status	Progress	Impact
DCJ implementation approach	Implementation has been slow, causing frustration. The Aboriginal Reference group within DCJ raised significant concerns about the impact that the ACMP will have on existing Aboriginal Caseworkers, without an injection of additional staffing, training and support. These concerns need to be taken seriously because there is a risk that service delivery outcomes for Aboriginal children and families will suffer without adequate staffing and resourcing	●	High
DCJ District resourcing, training and support	DCJ Districts are over-stretched and have been unable to effectively implement the ACMP – two years since its endorsement and publication. Districts need stronger central leadership, targeted training and support to assist them.	●	High

Initiative	Status	Progress	Impact
DCJ governance, leadership, accountability and oversight mechanisms	Many key deliverables have been consistently delayed, for example an assessment of DCJ District Readiness and Capability and the establishment of ACCMs.	●	High
Aboriginal Community Controlled Mechanisms (as a core component of the ACMP)	<p>The ACMP cannot be enabled without effective ACCMs in place. The NSW Government's Officer Level Working Group under CTG is preparing a budget bid to treasury for a package to establish regionally based Project Managers to support the establishment of ACCM's.</p> <p>The OCG suggests DCJ leverage existing effective local community governance mechanisms where possible rather than creating additional layers of community governance that are likely to have the same or similar Aboriginal community membership.</p>	●	High
Proactive Efforts Standards (as a core component of the ACMP)	<p>Proactive efforts are an essential enabler of success for the ACMP.</p> <p>There are currently no established mechanisms in place for DCJ Districts to report on their proactive efforts. A quality and streamlined reporting system should be established to capture data and to hold districts to account for this critical element of the ACMP.</p> <p>AbSec has written to the Minister advocating for the establishment of local community report cards to publicly hold DCJ to account for the delivery of key recommendations outlined in the Davis Review.</p>	●	High

Urgent support is needed for DCJ Districts

The information below was submitted to OCG by DCJ and endorsed by the Director Implementation and Performance on 1 June 2021, in response to a formal information request from the Deputy Children's Guardian regarding implementation of the ACMP.

DCJ Reported Challenges ⁷	OCG Analysis
<p>DCJ reported that Aboriginal Community Controlled Mechanisms (ACCM) are not clearly defined in the ACMP</p>	<ul style="list-style-type: none"> • DCJ Districts require targeted funding and resources to support them to effectively establish ACCMs. • DCJ needs to consider how the ACCM's will be adequately resourced and supported to become sustainable and effective once they are established. • There needs to be clear roles and responsibilities for secretariat support, to ensure accountability from all stakeholders and to support tangible and measurable outcomes. • Strong engagement principles need to be established with a commitment to supporting locally led approaches. • This will require a concerted effort by DCJ, to win the trust of community members over time, and to overcome the legacy of trauma that the child protection system has inflicted upon Aboriginal children and families for generations.
<p>DCJ reported that the nature, size and scope of the ACMP across the child protection continuum is overwhelming for DCJ Districts</p>	<ul style="list-style-type: none"> • This feedback indicates that it is not viable for DCJ Districts to deliver the ACMP without additional targeted funding, increased staffing and resources. • There is a real risk of staff burnout and a situation where Aboriginal children and families could receive worse services rather than strengthened ones unless the frontline workforce is supported with adequate resources. • The ACMP prescribes a more intensive service delivery approach to dealing with Aboriginal children and families than standard casework practice. This will impact casework ratios at the front-line. The bottom line is that caseworkers simply cannot take on more clients and support them in a more intensive way without an injection of more resources and more staff.
<p>DCJ's response confirmed that there has been limited implementation funding to support the ACMP in districts</p>	<ul style="list-style-type: none"> • Confirms the need for additional resources for DCJ Districts. • Shifting the responsibility for implementation to the Districts without required resources to adequately meet day-to-day demand for their services, and concurrently implementing the ACMP almost guarantees it will fail. • In October 2021, the OCG issued a targeted survey to non-Aboriginal OOHc providers. Overwhelmingly, organisations said that stronger centralised DCJ support was required to drive better outcomes, particularly regarding increased funding, better training and clearer guidelines.

⁷ All issues taken directly from Tab A, DCJ response to DCG information request, 1 June 2021

DCJ Reported Challenges⁷ OCG Analysis

- There is a need for an overarching strategy to guide districts to implement the ACMP
- DCJ District leadership need to have adequate authority and delegation to embed the ACMP in their districts

*"We need a consistent approach from DCJ that is centralised and not subject to District nuances and interpretations" **non-government out-of-home care agency***

Reform Actions

The table below provides an outline of urgent reform actions that are required to get the ACMP mobilised to improve outcomes for Aboriginal children and families. We strongly encourage DCJ to focus on these core deliverables, so that the ACMP can be implemented at the earliest opportunity.

Priority actions

Prioritise formation of ACCM's as a top priority to implement the ACMP

- Establish Aboriginal Identified Project Leads in all DCJ Districts to establish and maintain ACCM's
- These staff should assume responsibility for ongoing secretariat support to ACCM's and ensuring their sustainability
- These staff should coordinate reporting from DCJ Districts to DCJ Central on ACCM's and their impact

Establish Independent oversight of the ACMP, so that milestones can be effectively tracked, monitored and reported

- Investigate opportunities to create stronger oversight mechanisms to support the ACMP
- Create a culture of accountability and performance-based reporting in direct partnership with Aboriginal communities

Allocate targeted funding to DCJ Districts based on Aboriginal casework ratios

- Funding must be allocated urgently to establish strong and sustainable ACCMs
- The funding formula should reflect the number of Aboriginal children in OOHHC within each DCJ District to ensure an equitable and fair distribution

Invest in the design of Practical Casework Guidelines and Tools to enable high quality implementation at the front-line

- OSP to align the review of the DCJ Casework Practice Guide to the ACMP

-
- Develop additional practical tools and guidelines based on the five elements of the ATSICPP
 - These tools should be co-designed with the DCJ Aboriginal Reference Group to leverage their expertise at the front-line

Investment in high quality accessible training to create a dynamic, trauma informed and culturally competent workforce to deliver the ACMP

- Training for all front -line staff in the application of new casework guidelines and tools
 - Training for all front -line staff focused on trauma awareness and cultural competency
 - Training for ACCM members to increase their knowledge of the ACMP
-

Review 2

Improvements to casework policies including screening and risk assessments.

Overview

The child protection continuum includes a wide range of casework policies that are complex and known to have a disproportionate impact on Aboriginal children and families. A full-scale review of all casework policies would require substantial funding and a longer timeframe than what has been afforded to the OCG to complete this special report for the Minister.

Full and proper application of the ATSICPP (and ACMP), would deliver wide reaching benefits across the policy spectrum for Aboriginal children and families.

Concerningly, the Davis Review highlighted that many existing casework policies undermine Aboriginal and Torres Strait Islander people's right to self-determination. The review also expressed concern regarding non-compliance by caseworkers in the application of safety and risk assessments, and lack of visibility and transparency about how these policies are applied and enforced. In response to these findings, her review prescribed the following key recommendation:

Recommendation 56 stated: *'The Department of Communities and Justice should commission an independent review of its structured decision-making tools and processes to identify how they can be improved to enhance objectivity within child protection assessments. This review should be undertaken in partnership with Aboriginal community and stakeholders to ensure that it examines the cultural adequacy of current risk and safety paradigms and tools.'*

In response, the Office of the Senior Practitioner (OSP) is currently leading a review of six screening and risk assessment tools, including analysis of their impact on Aboriginal children entering the system. The tools prioritised for review include:

Mandatory Reporters Guide (MRG) - The MRG assists mandatory reporters to decide whether to report their concerns of possible abuse or neglect of a child to the Child Protection Helpline. Where the MRG indicates that a concern does not warrant a report, it assists mandatory reporters to respond appropriately to children (for example, referral to an appropriate service).

Screening Response and Priority Tool - used by the Child Protection Helpline to determine if a mandatory report meets the risk of significant harm (ROSH) threshold and if so, a priority response.

Safety Assessment Tool - used to determine if a child is safe to remain living with their parents in the immediate period, or if protective measures need to be put in place (this may be a safety plan, Temporary Care Arrangement or removal of the child).

Risk Assessment Tool - used to estimate the likelihood that a child will be reported over the next 18 months if purposeful supports are not put in place with the family.

Family Strengths and Needs Assessment Tool - used to identify the child's and parent's strengths that enable resilience and protection to maltreatment, and to identify and prioritise their needs to support a holistic and purposeful Family Action Plan. The FSNA is not currently implemented in child protection practice in NSW but will be implemented as a part of OSP's review.

Risk Re-assessment Tool - used to monitor progress towards case plan goals and reassess risk against the original risk assessment.

These tools are applied at a critical point on the child protection continuum. These tools assist practitioners to determine fair and evidence-based outcomes in the best interests of Aboriginal children. This review focuses on the importance of having Aboriginal experts and front-line practitioners with cultural knowledge inform the design of tools based on Aboriginal cultural knowledge, strengths and unbiased application.



Review Priorities

Priority	Rationale
Analysis of the Office of the Senior Practitioner's methodology applied to the review of all five key Screening and Risk Assessment tools	The current timeframe applied to the review (to be finalised by late 2022) meant that the OCG's primary focus needed to be directed at the review process, rather than an assessment of the quality of the Screening and Risk Assessment Tools themselves.
Analysis of current Aboriginal engagement and participation in the review process	OCG has identified quality Aboriginal engagement as a critical success factor.
Analysis of the extent to which the ACMP and ATSICPP are being incorporated into the review process	The new and improved Screening and Risk Assessment tools need to be developed with consideration of best practice and nationally accepted evidence. The tools also need to be effectively integrated into the practical delivery of the ACMP.

Analysis of key initiatives

Status:

- Completed
- On-track
- Remedial action required
- Urgent action required

Project/Initiative	Analysis	Status	Impact
OSP's Implementation approach to a review of DCJ's screening and risk assessment tools	<p>The OSP has devised a three staged process to deliver the reviews:</p> <ul style="list-style-type: none"> • Stage one (mid 2021): short term improvements to DCJ Helpline screening processes • Stage two (mid 2022): SCRPT and SA are ready to be incorporated into ChildStory • Stage three (late 2022): RA, FSNA and RRA are ready to be incorporated into ChildStory * <p>* ChildStory is a database that is utilised to record information aimed at providing a holistic view for informed decision-making.⁸</p> <p>The review process is theoretically sound, however there is scope for increased focus on ensuring that the ATSICPP and ACMP are considered in the design process.</p> <p>Embedding these core elements will ensure that the new tools are culturally sound, trauma informed and more able to capture cultural strengths and resilience factors for Aboriginal children and families.</p>		High
Quality engagement with Aboriginal experts to inform enhancements to screening and risk assessment tools	<p>The current OSP implementation plan confirms their intent to consult heavily with a wide range of internal DCJ mechanisms to inform the design of the new screening and assessment tools. While internal stakeholders are likely to have credible insights and expertise - additional focus needs to be directed at capturing the views of Aboriginal families that are impacted by the tools in practice.</p> <p>The OCG was strongly encouraged by OSP's intent to commission AbSec to facilitate community consultation and input into the assessment review process. It was also noted that the project is using the DCJ Aboriginal Taskforce as a governance mechanism, which now has membership external to DCJ.</p> <p>OSP have also sought to include Aboriginal young people with lived experience on the 'Core Team'</p>		High

⁸ DCJ, What is ChildStory, available at <https://www.facs.nsw.gov.au/families/childstory/what-is-childstory> (last accessed 30 July 2021).

(equivalent to a steering committee) which is commendable.

The OSP should consider leveraging the DCJ Aboriginal Reference Group. This group is highly skilled, motivated and capable of providing strategic advice from their collective cultural and professional knowledge base.

The OCG has engaged effectively with the OSP on a regular basis throughout 2021. During these conversations, the OCG provided OSP with an evidence-based tool designed by SNAICC in 2017.⁹ This high-quality resource was designed to guide states and territories on how to embed the ATSICPP into practice.

OSP efforts to eliminate unconscious bias and prejudice in the application of Screening and Risk Assessment Tools

The OSP's Implementation Plan (provided at the request of the OCG), acknowledges that current Screening and Risk Assessment tools are not culturally safe and are largely based upon euro-centric concepts and beliefs that do not respond to traditional Aboriginal beliefs and practices.¹⁰

This further reinforces the need for OSP to focus on:

- Embedding the ATSICPP into the fundamental design of the Screening and Risk Assessment Tools
- Aligning the new tools to the ACMP and the Practice Framework to guide caseworkers
- Including Aboriginal experts and stakeholders in the design of the new tools
- Investing in quality, nationally recognised training to eliminate the likelihood of unconscious bias, to strengthen cultural competency and to ensure that front-line staff are trauma informed
- The most critical enabler of success of these new assessment tools is increased focus on capturing Aboriginal children and family's cultural strengths. The introduction of the Family Strengths and Needs Assessment Tool will assist with this, but OSP needs to supplement that tool with additional efforts that encourage staff to prioritise this critical element in their assessments.



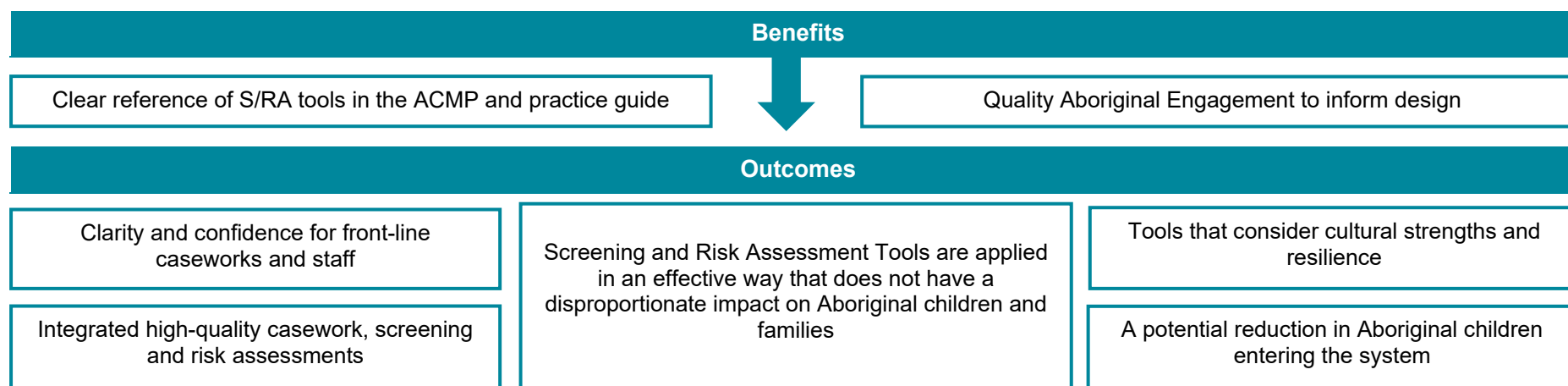
High

⁹ <https://www.snaicc.org.au/understanding-applying-aboriginal-torres-strait-islander-child-placement-principle/>

¹⁰ DCJ Office of the Senior Practitioner, Assessment Review Project – Reviewing and improving our decision-making tools, practices and processes (2021) (on file).

Action Plan

Priorities			
Ensure that all five elements of the ATSICPP are embedded into the design of the new screening and assessment tools	Ensure that the new tools are accurately referenced in the ACMP and supporting practice framework guidelines	Ensure that Aboriginal experts and staff are involved in the re-design of new screening and risk assessment tools	Continue targeted efforts to eliminate unconscious bias and prejudice in the application of screening and risk assessment tools
<p>Prioritise ACCM's urgently as a critical enabler</p> <p>Establish Independent oversight to strengthen governance and accountability</p> <p>Allocate targeted funding to DCJ Districts via an evidence-based formula</p> <p>Invest in best practice frontline guidelines and tools to enable responsive service delivery</p> <p>Invest in nationally recognised training to develop and sustain a dynamic, trauma informed workforce</p>	<p>Engage Aboriginal experts in the design and delivery of responsive screening and risk assessment tools</p> <p>Utilise the DCG Aboriginal Reference Group for knowledge and expertise -to co-design effective frontline casework tools that are culturally sound</p> <p>Enable the Office of the Senior Practitioner to develop cutting edge, innovative guidelines and practice frameworks underpinned by the five elements of the ATSICPP</p>	<p>Ensure that all Practitioners apply the ATSICPP to facilitate effective family finding for Aboriginal children</p> <p>Resource ACCO's to undertake effective Aboriginal kinship/family finding options</p> <p>Recruit and support Aboriginal Assessors to play a lead role in sourcing Aboriginal carers</p> <p>Reform internal DCJ policies that adversely impact Aboriginal kinship carers</p>	<p>Modify the FGC model to be culturally attuned to the needs of Aboriginal children and families</p> <p>Expand application of ADR models across the Child Protection Continuum, particularly as early intervention option</p> <p>Deliver tailored support and follow up to Aboriginal children and families engaged in FGC's</p> <p>Establish a trauma informed and culturally responsive workforce</p> <p>Enhance data collection</p>



Review 3

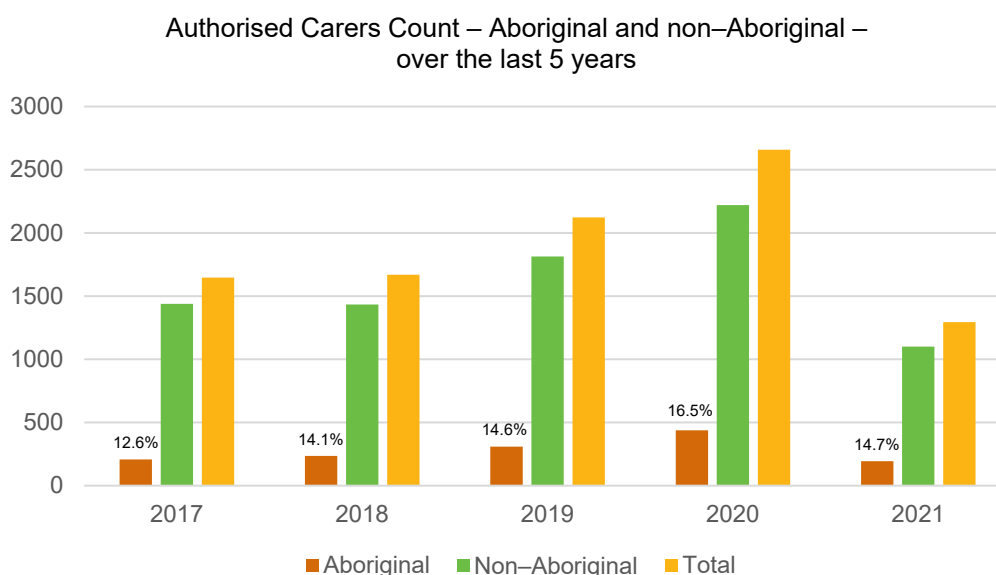
Process improvements to make carer assessments and authorisations more efficient, including better use of online and digital technology.

Overview

The Davis Review highlighted the ongoing problems with finding, assessing, and supporting potential family and kinship carers for Aboriginal children. These concerns were reported by multiple stakeholder submissions and upon review of the Aboriginal children and young people's case files that were reviewed to inform the Davis Review. Key concerns included poor family finding practices, potential carers being ignored or overlooked, complexities regarding probity checks, a lack of culturally appropriate assessments as well as concerns regarding DCJ's policies.

The Davis Review made several recommendations to support and improve the carer assessment process for Aboriginal carers. This included recommendations relating to enhancing departmental knowledge of the Aboriginal Child Placement Principle, implementing the ACMP, increasing the oversight and accountability of caseworkers, reviewing and amending probity check requirements and adjustments to specific DCJ policy decisions.

Data obtained from the OCG's Carers Register tells us that only 14% of available carers in NSW identify as Aboriginal or Torres Strait Islander, with only 8% of all carers being authorised by Aboriginal OOHCA agencies. Given the fact that Aboriginal children make up 43% of all children in OOHCA, these figures evidence the challenges in being able to place Aboriginal children with Aboriginal carers. The table below identifies the disparity between Aboriginal and non-Aboriginal carers who were assessed and authorised on a yearly basis since 2017.



Within this review, we consider how the current carer assessment process works in practice for Aboriginal kinship carers. We have gathered feedback from stakeholders about the application of the Aboriginal Child Placement Principle in practice. The placement principle states that Aboriginal children have a right to grow up within their families, communities and with a connection to their culture¹¹. It is a legislative requirement to place Aboriginal children with Aboriginal family or kin, before considering any other placement option within the 'placement hierarchy'. The hierarchy dictates that where it is not possible for a child to be placed with family or kin, other options should be explored, including: a member of the Aboriginal or Torres Strait Islander community to which the child belongs; a member of some other Aboriginal or Torres Strait Islander family residing in the vicinity of the child's usual place of residence, or a suitable person approved by the Secretary after consultation with members of the child's extended family or kinship group, and any Aboriginal or Torres Strait Islander organisations as are appropriate to the child or young person.

Our review analyses data about Aboriginal carers who started their carer assessment journey as a provisionally authorised carer. A new carer in NSW may be provisionally authorised to provide care for a child in an emergency when the child is known to that person and when the individual has the intent to apply for full carer authorisation. The data below demonstrates that Aboriginal carers are more likely than non-Aboriginal carers to be provisionally authorised to provide care in an emergency. This means that more Aboriginal carers are known to the children and young people they are caring for than non-Aboriginal carers.¹²

Authorised Carers	ATSI	%	Non-ATSI	%	Total
Back Capture	1010	14%	6225	86%	7235
General Authorisation	790	11%	6478	80%	7277
Provisional before Authorisation	812	20%	3246	80%	4058
Total	2579	14%	15833	86%	18412

* Provisional Authorisation relates to carers who are known to the child or young person and are providing care while the assessment is taking place

* General Authorisation relates to carers who apply and are assessed to become carers

* Back capture data relates to carers who were assessed and authorised prior to the Carers Register coming into effect.

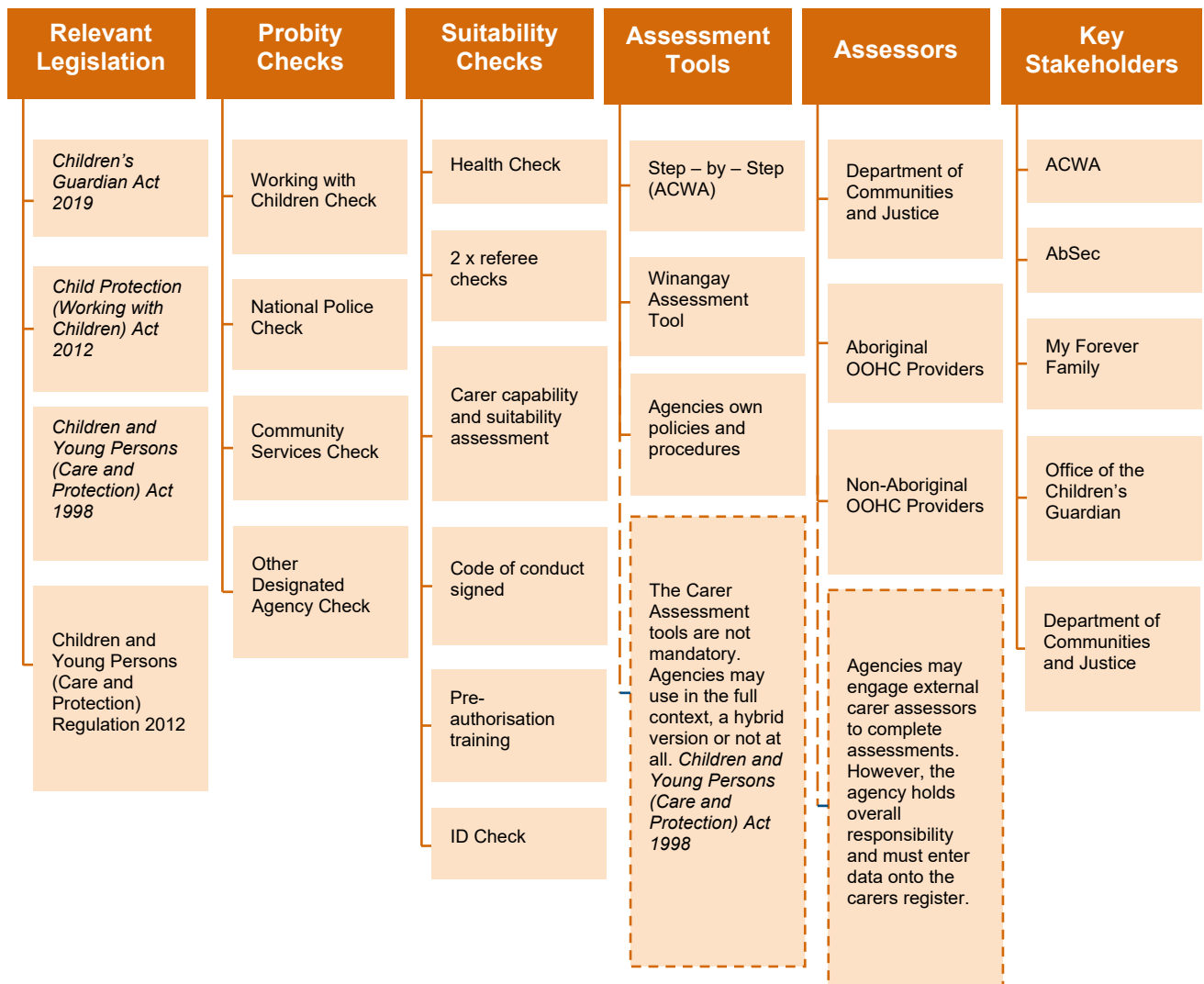
¹¹ Section 13, *Children and Young Persons (Care and Protection) Act 1998*

¹² Provisional Authorisation Report and Template, <https://www.ocg.nsw.gov.au/statutory-out-of-home-care-and-adoption/nsw-carers-register/fact-sheets>, November 2019

To become an authorised carer in NSW an applicant is required to undertake a comprehensive process, including numerous probity and suitability checks and a face-to-face assessment using a carer assessment tool chosen by the OOHC agency. There are multiple stakeholders involved who will support a potential carer on their journey to authorisation, as well as multiple agencies undertaking the assessments. Data retrieved from the OCG Carers Register tells us that since 2017 the average assessment time for carers has been between 6-8 months with no stark differences identified between the assessment times of Aboriginal and non-Aboriginal carers.

The table below provides an overview of the current carer assessment structure. It also shows the main carer assessment tools that are used in practice, acknowledging that OOHC agencies will also have their own policies, procedures, and requirements.

NSW Carer Assessment Structure



Stakeholders

To inform this review, the FIC team developed a comprehensive engagement strategy to gather evidence relating to the carer assessment process. Consultations were conducted with the key stakeholders listed below, as well as internal consultations with the WWCC Directorate and Registrations and Systems Directorate. Consultations were also held with independent community led Aboriginal organisations and additional government and non-government organisations.

Stakeholders	Description
DCJ	DCJ districts are designated OOHC providers and have responsibility for assessing and authorising Aboriginal carers, as well as administering the Community Services Check. DCJ are also responsible for implementing effective early intervention, case management and family finding, as well as holding the power to remove Aboriginal children from their families.
OCG	The OCG are responsible for administering the WWCC, overseeing the NSW Carers register and the accreditation and monitoring of designated OOHC agencies.
Designated OOHC Agencies	Designated Aboriginal and non-Aboriginal agencies are accredited by the OCG to provide OOHC to Aboriginal children in NSW. OOHC agencies hold responsibility for assessing and authorising carers.
My Forever Family (MFF)	MFF are the first point of contact for potential carers in NSW, providing them with information about fostering, permanent care and adoption. MFF are funded and contracted by DCJ and work with accredited OOHC agencies throughout the state to ensure that there is a pool of quality carers available.

Review Priorities

The table below depicts the key review priorities that the OCG has devised in response to the Minister's request.

Priority	Rationale
Reviewing the carer assessment process to identify opportunities to better support Aboriginal carers	Evaluating the carer assessment process used by DCJ and the OOHC sector to assess and authorise Aboriginal carers, with a specific focus on kinship carers. This will include a review of the relevant legislative and policy requirements, as well as the OCG's role in the process.
Identifying barriers and pain points within the process	Extensive consultations with government and non-government organisations to identify barriers for Aboriginal carers at specific points in the process. This included a review of current practice, tools used, probity

	checks required, availability of Aboriginal assessors, family finding and the online and digital technology available.
Reviewing the WWCC process and the impact this has on Aboriginal carers	Reviewing the experience and engagement of Aboriginal carers with the WWCC process, with a specific focus on Aboriginal kinship carers. This will look at current practice and stakeholder feedback collected since the publication of the Davis Review. Including a review of the progress made regarding relevant WWCC recommendations made within the Davis Review.

Analysis of key initiatives

The table below provides an overview of the progress made regarding recent initiatives being undertaken to support the carer assessment process. This has been based upon key recommendations made within the Davis Review for DCJ and the OCG, as well as feedback received from stakeholders regarding key issues.

Progress formula:

- Completed ● On-track ● Remedial action required
- Urgent action required

Initiative	Status	Progress	Impact
Culturally appropriate assessment tools and Aboriginal assessors	<p>DCJ have rolled out the Winangay kinship assessment tool to nine DCJ Districts and are exploring how this can be rolled out to remaining districts. The Winangay assessment tool was developed by Winangay Resources, a small not-for-profit Aboriginal organisation founded by Aunty Sue Blacklock. Winangay developed a suite of tools to better engage with Aboriginal children and families, including an Aboriginal Kinship Carer Assessment Tool. DCJ have not provided a timeframe for the remainder of this rollout to additional districts and state that additional resources are required to complete this.</p> <p>DCJ reported in July 2021 that an open tender will be released to expand the number of Aboriginal assessors. They stated that the tender will be culturally respectful and accessible, where applicants can share their cultural knowledge. DCJ have also committed to supporting applicants with further mentoring and training where required. DCJ did not provide a timeframe regarding this and it is unclear how this will be developed on a district level, which Aboriginal staff and communities will be involved and consulted with and which tool the assessors would be trained with.</p> <p>DCJ also report that they contract the services of MFF to source and support Aboriginal carers and to develop culturally appropriate recruitment practices. MFF provided the OCG with information relating to their targeted recruitment strategies which include face to face yarning circles held on country, alongside Aboriginal communities and ACCO's. MFF state that the few events held so far have been successful in terms of building trust with agencies and communities¹³. However, MFF were open about the barriers they face as a result of not being an Aboriginal-led organisation.</p>	●	High

13 MFF Yarning Circles, <https://www.eventsforchange.org.au/haveayarn>

	<p>Feedback from designated OOHC agencies indicated that the sector is either using the Step-by-Step or Winangay assessment tool in practice, with some agencies using their own tools. In addition, it is apparent from the consultations that Aboriginal carers are often assessed by a non-Aboriginal assessors and a number of non-Aboriginal agencies state that they do not have a separate process when assessing Aboriginal carers or the ability to source Aboriginal assessors. It was agreed however, that the chances of an Aboriginal carer engaging with the process and reaching full authorisation is higher when both of these things occur.</p>		
Case planning and family finding	<p>DCJ state that they have adopted a Family Finding model that seeks to connect children with family and other supportive adults known to them and also references FGC as a mechanism to identify suitable kinship carers. It is reported that these mechanisms are developed, implemented and oversighted at the DCJ District level.</p> <p>DCJ further advised that the revision of the <i>'FACS Information Guide – Assessment and full authorisation of Relative and Kinship Carers'</i> which was identified as a concern within the Davis Review, has not yet been completed.</p>	●	High
The use of provisional authorisation	<p>The Davis Review identified that DCJ policy does not allow a carer to be <i>'fully authorised'</i> until all adults in the home have a cleared and verified WWCC and that provisionally authorised carers must obtain a WWCC clearance within 3 months of application. As a result of this policy, Aboriginal children were being removed from their placements due to delays in the processing of WWCC applications. The Davis Review recommended that this be reviewed as a matter of urgency¹⁴. DCJ have not yet progressed this recommendation, stating that they are awaiting the OCG's report before allocating to a project team.</p>	●	High
Probity and suitability checks	<p>The Davis Review recommended that DCJ review the formal probity checks required of carers and the process for obtaining these checks to ensure they are not unduly limiting potential carers¹⁵. The review was to include</p>	●	High

14 Professor M Davis, Family is Culture Report, October 2019, Recommendation 92

15 Professor M Davis, Family is Culture Report, October 2019, Recommendation 88

consideration of a level of discretion to enable a person to care for a child in OOHC despite not satisfying or completing the formal probity checks, when to do so would be in the best interests of the child. DCJ have not yet progressed this recommendation, stating that they are awaiting the OCG's report before allocating to a project team.

OCG's review of the WWCC

Stakeholder feedback highlighted the detrimental impact the WWCC requirement has on potential Aboriginal carers. Concerns centred around the extent of an applicant's engagement in the risk assessment process, how applicants are assessed by the OCG, as well as the ongoing delays in applications being finalised. It was submitted that the current WWCC requirement has the potential to rule out appropriate Aboriginal carers who are willing and able to provide care for Aboriginal children.

Specific recommendations were made to the OCG by the Davis Review, including the OCG undertaking a review of the impact of the WWCC on Aboriginal applicants and the prioritisation of Aboriginal carers within the risk assessment process¹⁶. Since November 2017, the WWCC has implemented several initiatives to better support Aboriginal applicants, which are explained in further detail in **Attachment C**.

This includes internal reviews, community engagement, implementing a WWCC First Nations Policy and an internal process where Aboriginal applicants are engaged with in an individualised way when they first apply. Community engagement in Bourke also led to the development of the Maranguka Agreement with the Bourke tribal council. The agreement enables Aboriginal applicants living in Bourke to contact representatives from the council, who will provide a reference to support the applicants WWCC risk assessment. Due to Covid-19 restrictions the agreement remains in draft, however it is hoped that this initiative can be finalised soon and a similar approach used in other Aboriginal communities, depending on their local needs.

The OCG will continue to review its operational procedures to ensure that Aboriginal applicants are able to engage effectively in the process. The OCG



Medium

¹⁶ Professor M Davis, *Family is Culture Report*, October 2019, Recommendation 89, 90, 91

acknowledges that there remains the potential for all WWCC applicants, including Aboriginal carers to experience delays in the processing of their WWCC application despite the abovementioned initiatives being in place.

Proof of Identity Requirements (WWCC)

A major barrier identified during the OCG's ACCO consultations related to Aboriginal carers not being able to meet the proof of identity (POI) requirements to apply for a WWCC. In December 2019, the Australian Criminal Intelligence Commission (ACIC) made changes to the POI requirements needed to make a WWCC application.¹⁷ Currently an applicant needs to provide 100 points of identification which relates to four identity documents including a birth certificate or Australian passport. ACCOs told us that these changes have had direct implications for many of the children and families they are working with.

ACIC has a special provision process for applicants who are unable to meet the POI requirements. However, this process is not widely advertised and is dependent on the applicant providing additional information as to why they cannot meet the POI requirements. For example, individuals may be required to contact Births, Deaths and Marriages to seek confirmation that a birth was not registered or apply for new identity documents. This is a particular barrier for potential kinship carers, who are often required in an emergency and cannot be provisionally authorised to provide care for a child until they have applied for the necessary identity documents and applied for a WWCC.

Prior to these new requirements being introduced the OCG consulted with AbSec and put the wider sector on notice regarding the upcoming changes, which included all designated OOHc agencies. The OCG encouraged anyone experiencing difficulties with the new POI requirements to contact the office for support. However, the OCG notes the stakeholder feedback received and accepts that this remains an ongoing issue in the sector particularly for Aboriginal OOHc providers and potential Aboriginal carers.



High

¹⁷ <https://www.ocg.nsw.gov.au/child-safe-organisations/working-with-children-check/applicant/proof-of-identity>

Online and digital technology

The OCG consulted with stakeholders about the availability of online and digital technology to assess whether this was a barrier that potential Aboriginal carers were facing. A person's access to a working computer, the internet and ability to use these devices were all highlighted as potential barriers; however, it was not identified as a significant issue compared to others that were raised.

Stakeholders also discussed the efforts they take to support carers with this issue, such as providing computer access or assisting carers to complete online forms. In addition, MFF have supported OOHC agencies by offering the Step-by-Step '*Shared Stories, Shared Lives*' training online which has enabled numerous carers to progress through the process, rather than waiting for a face-to-face session.



Medium

Enabling better outcomes

The following opportunities have been identified to strengthen the carer assessment process based on stakeholder feedback and have been listed in order of priority and need.

Improve accountability and increase efforts regarding family finding and case planning before a child is placed into OOHC

Reasoning

While DCJ have referenced a family finding model and specified FGC as a mechanism to identify potential kinship carers prior to a child's entry into OOHC, this was in contradiction to the experiences of ACCO's, Aboriginal community led organisations and other government and non-government departments that the OCG consulted with. Stakeholders spoke in detail about the lack of effective family finding by the department and cited on numerous occasions that this work is often not completed or completed within limited timeframes and does not allow families and communities the ability to properly explore potential care options for their children. Stakeholders felt that additional work is needed in this space by DCJ to establish better connections with birth families to identify potential placements and carers at an earlier stage.

The effectiveness of these practices on the front-line has a direct correlation to the possibilities of finding suitable and willing Aboriginal kinship carers. Without these practices, there is the potential for more Aboriginal children to be displaced from their families, communities and Country and placed with non-Aboriginal carers.

Action	<p>While noting the reported models used by DCJ to conduct this work, additional enhancements could include:</p> <ul style="list-style-type: none"> • DCJ to partner more closely with Aboriginal early intervention services when completing family finding and potential placements. These agencies expressed that they have knowledge of Aboriginal families and communities that DCJ do not and are often consulted too late in the process to provide effective information. Concerns were also raised that DCJ caseworkers were often unaware of the local Aboriginal agencies that can provide support and assistance to families. • DCJ to conduct family finding where possible in advance of a child being placed into OOHC, including the identification and exploration of potential family members who may already have children placed in their care. This would be supported by the effective implementation of the mandatory ADR system and the implementation of the ACMP. • Given the stakeholder feedback received as part of this review, DCJ should review and strengthen the district level mechanisms for oversight and adherence to the Aboriginal Child Placement Principle, family finding, ADR mechanisms and the locating of suitable kin. • DCJ to complete the revision of the <i>'FACS Information Guide – Assessment and full authorisation of Relative and Kinship Carers'</i> as per Davis Review recommendation 86 to ensure that the protective and beneficial aspects of kinship placements are identified.
Leverages/ Interlinkages	<ul style="list-style-type: none"> • Alignment with relevant CTG initiatives • DCJ's ongoing response to the relevant Davis Review recommendations
Outcome	Effective family finding and identification of suitable and willing kinship carers will allow more Aboriginal children to be placed within their families and communities.

Aboriginal-led organisations should take a leading role in the recruitment of Aboriginal carers

Reasoning	<p>It was widely acknowledged by DCJ, MFF and key stakeholders that potential Aboriginal carers are reluctant to engage with Government and non-Aboriginal organisations. Aboriginal OOHC providers stated that Aboriginal families and potential carers are more comfortable working with Aboriginal agencies and that the chances of an Aboriginal carer becoming authorised is higher when this occurs.</p> <p>Aboriginal stakeholders also felt that the process to recruit Aboriginal carers is based on a very Euro-centric model and does not allow the possibility of communal care for a child. It was discussed that often the language used in practice assumes that there should be one or two primary carers, and</p>
------------------	--

sometimes specifically a female carer. Stakeholders stated that a communal approach to care would align more broadly with Aboriginal communities and would allow the care of a child to remain within the family and community rather than one specific household.

Action While specialised Aboriginal carer recruitment initiatives listed by DCJ present a conscious effort to engage more effectively with Aboriginal communities, these efforts could be enhanced by:

- DCJ funding an Aboriginal-led organisation such as AbSec or Aboriginal OOHC providers to deliver targeted Aboriginal recruitment strategies consistent with those applied by MFF and in line with the CTG initiatives.
- Increased coordination between DCJ Districts and local Aboriginal-led organisations such as ACCO's, Aboriginal Child and Family Centres and Aboriginal-led targeted early intervention services to recruit and identify additional carers at a local and district level.

Leverages/ Interlinkages • Alignment with relevant CTG initiatives
• Leveraging existing carer recruitment strategies to make them more targeted and culturally appropriate

Outcome Aboriginal carers are much more likely to engage with Aboriginal-led organisations which will in turn increase the number of Aboriginal carers engaging in the process and reaching full authorisation.

Aboriginal carer assessments should be completed by an Aboriginal Assessor and using a culturally appropriate carer assessment tool

Reasoning It was widely accepted by all stakeholders that a potential Aboriginal carer has a much higher chance of reaching full authorisation if they are assessed by an Aboriginal assessor and when a culturally appropriate tool is used.

The Davis Review identified the Winangay and the Aboriginal content within the Step-by-Step assessment tool to be culturally appropriate, however, saw limited evidence of these tools being used in practice. Stakeholder consultations identified that the sector is currently using either the Winangay or Step-by-Step tools in practice, however, there appears to be no consistency or accountability with this. It is also noted that DCJ and OOHC agencies are at liberty to use a tool of their choice and it is not clear if agencies who use the Step-by-Step tool are using the Aboriginal specific content. In addition, it appears that Aboriginal carers are not given a choice regarding the tool that is used or whether they have the opportunity to provide any feedback.

Action To address this issue, the system can be enhanced in the following ways:

- DCJ should ensure that all Aboriginal carers are assessed using a culturally appropriate assessment tool and that this is consistent across all DCJ Districts with a strategic process and accountability measures in place to monitor this.
- DCJ should finalise the roll out of the Winangay assessment tool to the remaining DCJ Districts as a matter of priority. While DCJ notes that they are considering an independent pilot and evaluation of the Winangay tool in three districts, they should also focus on obtaining feedback from the Aboriginal families who have been assessed using the tool. DCJ Districts should also consider the individual needs of the Aboriginal communities they are working within and consider the tools effectiveness.
- DCJ should prioritise the tender process to recruit additional Aboriginal assessors.
- Designated OOHCA agencies should also ensure that they have processes and accountability measures in place to ensure all Aboriginal carers are assessed using a culturally appropriate tool and where possible by an Aboriginal assessor.

Leverages/ Interlinkages

- DCJ's ongoing response to the relevant Davis Review recommendations
- Alignment with CTG initiatives

Outcome By using culturally appropriate tools and Aboriginal assessors as, there is a greater potential for suitable and willing Aboriginal carers to engage in the process and reach full authorisation.

DCJ to revise and amend policies relating to Aboriginal kinship carers to ensure they are not being disproportionately affected

Reasoning **Provisional Authorisation:**

Given the concerns raised by stakeholders about DCJ rarely using the option to provisionally authorise family members and the concerns raised within the Davis Review about DCJ's policy on provisionally authorised carers the OCG has evaluated its own legislation and requirements around this issue, while acknowledging the potential delays an Aboriginal carer may face while waiting for their WWCC to be finalised.

Section 8 of the *Child Protection (Working with Children) Act 2012* legally allows a person to engage in child related employment with a WWCC application number while their application is being finalised, which includes authorised carers¹⁸. The OCG promotes that best practice would see a provisionally authorised carer reach full authorisation within three months, but this is not

¹⁸ Section 8, *Child Protection (Working with Children) Act 2012*

prescriptive and remaining on a WWCC application number should not preclude a carer from being able to continue providing care to a child. The OCG does not have any remit over another agency's policies in relation to the WWCC.

However, given the highly concerning examples of children being removed from Aboriginal families after a period of three months due to a WWCC application not being finalised as highlighted within the Davis Review, we would support DCJ reviewing this policy decision as a matter of urgency (Davis Review recommendation 92).

Requirement for kinship carers to hold a WWCC and go through the authorisation process:

The Davis Review recommended that DCJ should review the formal probity checks required for kinships carers (recommendation 88). Based on stakeholder feedback received, the required checks pose challenges to carers. The community services check was cited as one particular barrier, including delays in the processing of this check.

In line with this recommendation, the OCG has reviewed its own legislation regarding kinship carers and the requirement for them to obtain and hold a cleared WWCC, as well as looking at the requirements for kinship carers under the Care Act. Under the Care Act children in the care of relatives or kin are not deemed to be in OOHC *except* in particular circumstances. Broadly, these circumstances arise when the Children's Court has made an order allocating Parental Responsibility to the Minister or where the child or young person is in the care of the Secretary by way of supported care. Kinship care is seen as care provided by a relative or care provided by a person who is unrelated but, for example, shares a cultural background.

OOHC can currently only be provided by an authorised carer, which in turn triggers the need for a WWCC. If a relative or kinship care arrangement is formalised in any of the ways set out in s.135(3)(i-c) of the Care Act, then by virtue of s.136 Care Act, they would need to be an authorised carer and would require a WWCC (section 6(3)(c) of the *Child Protection (Working with Children) Act 2012* (WWC Act) and would not be exempt under Clause 20 (1)(d) of the *Child Protection (Working with Children) Regulation 2013* (WWC Regulation). We note that there are very few scenarios where a carer would be exempt from requiring a WWCC and needing to go through the carer authorisation process.

The OCG acknowledges the barriers that Aboriginal kinship carers face when applying and obtaining a WWCC. This is evidenced by our multiple stakeholder consultations as well as information included within the Davis Review. The OCG also acknowledges that the WWCC risk assessment process is a paper-based assessment which has limitations when assessing possible placement decisions for Aboriginal children and potential carers. It is noted that DCJ and Aboriginal-led organisations would be much better equipped to make placement decisions and conduct suitability and risk assessments based on their working knowledge

of the family. As it currently stands, the OCG may be inadvertently affecting the course of Aboriginal carers and the placement of Aboriginal children due to the legislated requirement for authorised carers, including kinship carers to hold a WWCC.

Action

The following recommendations are made to progress these concerns:

- DCJ to progress and allocate Davis Review recommendation 92 regarding the provisional authorisation of kinship carers as a priority and to consider collaborating with the OCG to ensure that policy decisions are in line with OCG legislation. Stakeholder feedback and concerns raised as part of this review can be used by DCJ to assess current practice and the implications and limitations of their policies.
- DCJ should review the legal requirements under the Care Act which requires kinship carers to go through the formal carer authorisation process as part of their statutory review of the Act in 2024.
- DCJ to progress Davis Review recommendation 88 as a matter of priority and review the formal probity checks required for carers. Based on current legislation, the OCG and DCJ could collaborate further regarding the associated legislation that requires kinship carers to obtain a WWCC, as well as how DCJ and OOHCA agencies could further support Aboriginal applicants through this process.
- DCJ should review its processes for completing the community services check for carers including a review of the time taken to complete this to ascertain whether this is adversely affecting Aboriginal carers and placement decisions.
- The OCG should continue to implement and apply its First Nations Policy when assessing Aboriginal kinship carers.

Leverages/

Interlinkages

- Alignment with relevant CTG initiatives
- DCJ's ongoing response to the relevant Davis Review recommendations
- Legislative review of the CG Act
- Legislative review of the Care Act

Outcome

Changes to DCJ policy regarding provisional authorisation and a review of the probity and suitability check requirements would have numerous benefits for Aboriginal kinship carers trying to navigate this process and would ultimately allow more Aboriginal children to be placed with their extended family and communities.

The OCG should continue to review its practices and engagements with Aboriginal applicants to ensure they can effectively engage in the WWCC process

Reasoning It was widely acknowledged by stakeholders that the WWCC remains a significant barrier for potential Aboriginal carers, specifically kinship carers and because of this requirement, suitable and willing carers are often excluded from the process. Concerns raised by stakeholders included poor placement decisions being made due to delays in the processing of a WWCC, a lack of engagement in the process, applicants who are automatically disqualified due to historical offences, as well as a lack of knowledge in the sector about the Memorandum of Understanding between the OCG, DCJ and the Children's Court.

Action While the OCG will support individual applicants where possible and has implemented initiatives to improve engagement with Aboriginal applicants (see Attachment B), it is clear that the WWCC continues to be a significant barrier to potential Aboriginal carers, as well as Aboriginal communities more generally. It is recommended that the WWCC continues to review and implement new strategies to better support Aboriginal engagement in the WWCC process, this could include:

- Prioritisation of Aboriginal carers who do not fall under the current Memorandum of Understanding and who require a full risk assessment. We note that delays in processing WWCC's continues to affect an Aboriginal carer's ability to provide care to a child.
- The Memorandum of Understanding, which was implemented in April 2018, states that it will be subject to a two-year review or a time agreed by all parties. The review states that it will consider the general operation of the information exchange process as well as identifying any potential enhancements. A review of the Memorandum has not yet taken place and it may be prudent for the parties to evaluate the effectiveness of this system in the sector, with a focus on Aboriginal carers.
- The OCG could consider reviewing the legislation regarding automatic disqualifications and ascertain whether any legislative amendments could be made to allow the Children's Guardian discretion to review certain matters rather than an applicant having to apply to the NSW Civil and Administrative Tribunal.
- While the OCG consulted with AbSec and the OOHCC sector prior to the proof of identity changes being introduced in December 2019, the OCG accepts that further support and consultation is required. The OCG should consider providing additional resources to ACCO's to assist with the proof of identity challenges, including the potential to further collaborate with AbSec on this.

-
- The OCG should continue to implement the First Nations Policy in day-to-day practice and incorporate any key learnings from the recent review of this Policy.
 - The OCG should continue engagements with Aboriginal communities across NSW to assess their community needs in relation to the WWCC and their ability to support applicants.

Leverages/	• OCG Reconciliation Action Plan
Interlinkages	• OCG Family is Culture working group
	• Using the Aboriginal Deputy Children's Guardians role to enhance community engagement, which is a priority for the role in 2022.

Outcome	A more effective and engaging process that Aboriginal applicants are able to access and navigate.
----------------	---

Review 4

Operation of the new mandatory Alternative Dispute Resolution system including Family Group Conferences for Aboriginal families.

Overview

ADR broadly covers any form of process that does not go through the court system but instead uses a third-party mechanism to resolve identified issues. In a child protection context, ADR aims to provide a safe environment that promotes frank and open discussion between parties in a structured forum to encourage agreement on what action should be taken in the best interests of a child or young person.

Legislative changes to the Care Act in 2018 made it compulsory for DCJ to offer ADR prior to a care application being made to the Children's Court, apart from exceptional circumstances.¹⁹ Under current arrangements, ADR must be offered after a Risk Assessment determines a high or very high rating for a child or young person. Legislation does not prescribe specific processes, nor does it limit the type of model to be used. It also doesn't limit the potential for ADR to be applied at other critical points across the child protection continuum.

FGC is the primary ADR mechanism endorsed by DCJ. Pre-natal conferences are applied in some DCJ Districts but not on a very large scale. For this reason, this review focused primarily on DCGs implementation of FGCs.

FGC was first used in a modified form in NSW by Uniting Care in 1996 and by some Community Service Centres (CSCs). The models formal use came after the release of the *Special Commission of Inquiry into Child Protection Services in NSW, 2008* and the government's response, specifically the *Keep Them Safe: A shared approach to child wellbeing* (2009).²⁰ The FGC process involves three stages: *information sharing, family time and agreeing to the plan* and requires significant preparation and ongoing follow up.²¹

The Davis Review raised several concerns regarding the use of ADR in the NSW child protection system, including lack of consultation in its development, poor oversight and limited data collection. The review also highlighted the need to recruit more Aboriginal facilitators and to ensure that the delivery of the model was responsive to the needs of Aboriginal children and families.

To inform this report to the Minister, the OCG worked with a wide range of stakeholders directly and indirectly associated with the delivery of FGC. These engagements helped to inform priority focus areas that will contribute to better

¹⁹ 'Exceptional circumstances' are not defined in legislation. In practice, where emergency assumption or removals have occurred, in cases involving domestic violence or, where physical threats to safety of child or family may exist are reasons for not offering ADR.

²⁰ An evaluation of an FGC pilot that emerged from the Keep Them Safe Plan recognised, "a number of positive short-term outcomes," and made numerous recommendations to improve practice. It also recommended another, more detailed evaluation that focused on long-term outcomes and measures to ensure continuous improvement.

²¹ Where ADR is used in this report, it refers to the broader ADR system, while FGC, as the predominant model of ADR will refer specifically to that model

outcomes for Aboriginal children and families. The OCG also based its review findings on data provided by DCJ in response to a formal information request by the Deputy Children's Guardian and an Interim Evaluation Report conducted by the University of Sydney's Research Centre for Children and Families.

Review priorities

The table below shows the key review objectives that the OCG has devised in response to the Minister's request.





Priority	Purpose
A review of how the FGC model is applied to Aboriginal children and families.	The Davis Review highlighted many examples of concerning practice relating to ADR. It identified opportunities to ensure that ADR practices can produce meaningful outcomes for families participating in FGCs.
A review of current initiatives being implemented by DCJ to improve the FGC model for Aboriginal children and families.	DCJ's current work aims to improve the delivery of the FGC model by improving access to training, resources, increasing Aboriginal facilitator pools and commissioning an independent evaluation of FGC by the University of Sydney.
Identifying clear priorities to improve outcomes for Aboriginal children and families in terms of access to ADR and their participation in FGC specifically.	This review aimed to identify useful, practical, and applicable solutions, including plans to strengthen implementation and accountabilities. There is a strong focus on the need for cultural competency and trauma informed processes and ensuring quality engagement with Aboriginal children and families in the preparation, delivery and follow up stages of FGC.

Analysis of key initiatives

The table below provides an overview of implementation priorities being undertaken. Ratings have been applied to depict the relative progress and impact of current initiatives.

Progress formula:

- Completed
- On-track
- Remedial action required
- Urgent action required

Initiative	Description	Progress	Impact
Efforts to increase the number of Aboriginal Facilitators	All stakeholders spoke favourably about the benefits of using Aboriginal facilitators. DCJ is seeking to recruit more Aboriginal facilitators. A strategic approach is required to target districts with low numbers of facilitators as a priority.		High
University of Sydney's Research Centre for Children and Families Evaluation	The Research Centre for Children and Families completed an Interim Evaluation Report in September 2021. Their final report was not available to inform this review. The final report will provide a comprehensive evaluation of the FGC model and will include targeted recommendations to strengthen existing practice. DCJ should deliver a comprehensive plan in response to the evaluation and ensure that initiatives are adequately resourced.		High
The relationship between Aboriginal Family Led Decision Making (AFLDM) and FGC	The (ACMP) includes AFLDM as a key element. AFLDM is a similar process to FGC and more work should be undertaken to differentiate the two models. In other jurisdictions AFLDM is considered a form of ADR, whereas NSW has explicitly stated it does not fall under ADR. Some stakeholders flagged that further work needs to be undertaken to provide clarity and guidance to caseworkers regarding differentiation between the two models. In approaching this, DCJ should be mindful to avoid the creation of a two-tier system where one process is prioritised or favoured over the other. The two systems should be working in a coordinated way to achieve desired results.		Medium
FGC Training and Practical Resources	DCJ has released a series of resources to support caseworkers in the delivery of FGC. These include a guide for working with Aboriginal families, updates to the caseworker training program and FGC practice mandates. DCJ should ensure that Aboriginal staff and experts dealing with families have an opportunity to refine these resources. Ideally, the development of these resources should be co-designed with Aboriginal stakeholders with the DCJ Aboriginal		Medium

	Reference Group providing critical advice and oversight.	
Pre-natal Conferencing	The Pre-Natal Conference (PNC) is a welcome addition to options within the ADR system. It seeks to address concerns raised in the Davis Review, however like FGC, it is not a model that is tailored to the needs of Aboriginal users. DCJ needs to ensure that PNCs operate in a way that respects Aboriginal cultural standards. Training and practice resources are critical and ideally the DCJ Aboriginal Reference Group should provide advice and oversight of initiatives relevant to the roll out for Aboriginal clients.	● High

Enabling better outcomes

Five opportunities have been identified to strengthen the ADR System based on stakeholder feedback, as it pertains to the needs of Aboriginal children and young people.

Increase the use and application of a range of ADR options for Aboriginal children and families across the child protection continuum.

Reasoning FGC is not an Aboriginal targeted initiative. Stakeholders have strongly emphasised the importance of using Aboriginal facilitators for Aboriginal families.

Legislation defines ADR very broadly and permits flexibility to introduce other forms of ADR, meaning models can be developed, altered, removed or adapted as needed. If desired, there is room for innovative models based upon Aboriginal cultural strengths that are co-designed with Aboriginal experts and stakeholders.

Introducing new models, tailoring existing ones or developing new ones to meet the needs of Aboriginal families has potential to decrease the number and rate of Aboriginal children entering the system, expedite exit rates and a reduction in the duration of Aboriginal children in care.

- Actions**
- Consider the use and application of additional ADR models based upon national evidence
 - Consider investing in new models that are co-designed with Aboriginal experts and that leverage cultural strengths
 - Ensure that FGC and ADR are clearly reflected in work associated with the ACMP
 - Leverage ACCMs for feedback
 - Use the DCJ ARG for expertise and advice

-
- | | |
|----------------|---|
| Outcome | <ul style="list-style-type: none">• High quality engagement with ADR• Increase in long term outcomes achieved• Decreased engagement with legal, CP and OOHC systems |
|----------------|---|
-

Expand the use of ADR across the continuum

Reasoning Currently, legislation requires the use of ADR at only one point on the child protection continuum. A key and consistent perspective raised in stakeholder engagements was the possibility that earlier and more frequent use of ADR may also produce better outcomes and reduce contact with the child protection system.

Permanency Support Providers expressed a willingness to use ADR if funding was available to expand its usage across the child protection continuum. By allowing ADR to be used more frequently, by more services and as required by families, the process may identify issues (or context surrounding them) and potential solutions, at critical points in time when intervention and restoration are more likely to be successful, particularly at an early intervention stage.

-
- | | |
|----------------|--|
| Actions | <ul style="list-style-type: none">• DCJ to consider applying ADR on a broader basis across the child protection continuum, from early intervention, preservation, prevention and restoration.• DCJ to consider the benefits associated with allowing other services (e.g. PSP providers and TEI services) to use ADR as an initiative aimed at reducing Aboriginal children's entry into the system• Ensure the increased usage of ADR by key stakeholders is properly resourced |
|----------------|--|
-

- | | |
|----------------|--|
| Outcome | <ul style="list-style-type: none">• ADR used as necessary by empowered families• More opportunities that produce better outcomes that resolve identified issues |
|----------------|--|
-

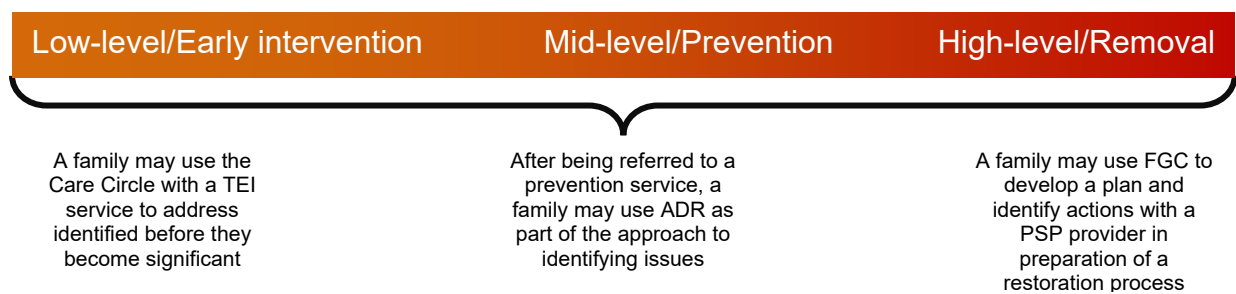
Currently, the ADR system functionally offers only two forms of ADR: FGC (the most used by far) and pre-natal conferences.

Based on legislation, these generally only occur at one point in time between the completion of a Safety and Risk Assessment (SARA) and before applying for court orders.



The above recommendations aim to build a system that allows for a larger range of ADR options to be provided more flexibly.

An expansion of ADR being applied across the broader child protection continuum would provide for greater influence of early intervention support for families and more thorough engagement for families when restoration is possible.



Provide better support for Aboriginal families participating in FGC

Reasoning Families are at the centre of the FGC process and need to understand the process and aims of the model. Stakeholder consultations revealed that FGC appears to be more successful when families are informed, engaged and supported.

Participants of FGC must be informed, aware and prepared so they can fully participate, and engage in the process. Additional resources are required to effectively support families post FGC, to ensure that action plans are incorporated into core casework.

-
- Actions**
- Allow greater family participation in FGCs by nominated support people, advocates and relevant stakeholders can attend and adequate time for families to prepare is provided
 - Develop and ensure access to available, accessible and easy to understand resources that explain the FGC process, its purpose, participant roles and other key information
 - Mandate the use of Aboriginal facilitators for ADR with Aboriginal families and children
 - Ensure completed action plans leads to better outcomes for families
-

- Outcome**
- Empowered families that are informed and willing to participate
 - Better resourced, more achievable and accountable action plans
-

Provide better support for Caseworkers

Reasoning The Mandatory ADR system is a relatively new addition to practice, and it is clear through consultation that caseworkers require significant training, resources and support to understand their roles. Resources and targeted training are needed and should be developed through co-design. DCJ should leverage the expertise of the DCJ Aboriginal Reference Group.

Actions

- Continue to provide ongoing training and resources to improve performance and practice
- Develop informational resources that clarify the purpose of ADR and the role of caseworkers and facilitators.
- Ensure support and resources are available to complete action plans and follow ups

Outcome

- Increased satisfaction for all participants
- More willing engagement with the system
- More thorough preparation, engagement and follow up

Undertake comprehensive monitoring, oversight and data collection

Reasoning Shifting data collection to include qualitative elements about user experience and satisfaction, as well as long-term consequences would assist DCJ to strengthen FGC.

Currently, DCJ's Ngaramanala Program is investigating how DCJ approaches Indigenous Data Sovereignty (IDS) and Indigenous Data Governance (IDG). This work needs to be adequately resourced and supported.

Quality and timely data is needed to monitor the ADR system and its impact. The University of Sydney Evaluation is likely to mention opportunities for improved data capturing and monitoring, based upon targeted engagements with the OCG in preparing this review.

Actions

- Improve qualitative data collection and ensure it aligns data with IDS and IDG principles and CTG initiatives
- Consult with Aboriginal communities about expanding and improving inclusivity of governance, oversight and monitoring structures, including ACCMs and other key stakeholders

Outcome

- A system that provides accountability to its users
- A system that responds to feedback and data from users

Review 5

Implementation of the Joint Protocol to reduce contact of young people in residential out-of-home care with the criminal justice system.

Overview

In 2016, the NSW Ombudsman, in consultation with NSW Police, NSW Legal Aid, FACS and several OOHC providers initiated the Joint Protocol. The Joint Protocol aims to:

- Reduce the frequency of Police involvement in responding to behaviour by young people living in residential and ITC services, which would be better managed solely within the service
- Promote the principle that criminal charges will not be pursued against a young person if there is an alternative and appropriate means of dealing with the matter
- Promote the safety, welfare and wellbeing of young people living in residential and ITC services, by improving relationships, communication and information sharing both at a corporate level and between local police and residential services
- Facilitate a shared commitment by Police and residential ITC services to a collaborative on an early intervention approach
- Enhance Police efforts to divert young people from the criminal justice system by improving the information residential and ITC services provide police about the circumstances of the young person, to inform the use of their discretion
- Ensure that appropriate responses are provided to young people living in residential and ITC services who are victims of offences
- The Joint Protocol is not exclusively targeted at Aboriginal children and young people

Review Priorities

Priority	Rationale
Strengthen implementation of the Joint Protocol	The Joint Protocol was conceived in 2016. The Joint Protocol 2019 ²² prescribes that an overarching State-wide Implementation Plan should be in place to guide the existing nine ITC Hubs to formulate their own localised implementation plans. The OCG's review has identified that these plans do not currently exist. This is stifling effective implementation of the Joint Protocol.
Enhance data collection, monitoring and	Despite being operational for several years there is no accurate data currently available to show the number or proportion of Aboriginal children and young people engagement in the Joint Protocol. This limits

²² [https://www.facs.nsw.gov.au/Joint Protocol 2019](https://www.facs.nsw.gov.au/Joint%20Protocol%202019)

oversight of the Joint Protocol	the OCG's capacity to measure the impact or relative success of the Joint Protocol for Aboriginal children and young people. It also means that the State-wide Steering Committee has no useful data or context to inform strategic decisions.
Ensure that front-line staff have adequate access to training, skill development and resources	In July 2021, on-line training modules were launched. The OCG has assessed these modules and finds that while they are credible, and easily accessible - more emphasis could be placed on ensuring that front-line staff have cultural competence and trauma awareness when dealing with vulnerable Aboriginal communities. There also needs to be more emphasis on quality control and ensuring that all frontline stakeholders complete the training – including for new staff.

Stakeholders

The table below depicts roles and responsibilities for key stakeholders involved in the Joint Protocol.

Stakeholder	Role and Responsibilities
DCJ	<ul style="list-style-type: none"> • Co-chair of State-wide Steering Committee • Training and skills development for frontline staff • Leading and coordinating the development of the State-wide Implementation Plan • Supporting ITC Hubs to design and Implement quality Local Implementation Plans • Data capturing, monitoring and oversight
ACWA	<ul style="list-style-type: none"> • Co-chair of State-wide Steering Committee • Supporting ITC Providers to implement the Joint Protocol • Coordinating feedback on operational issues and frontline impediments
Police	<ul style="list-style-type: none"> • Actively participating in the design of Local Implementation Plans • Frontline responses to ITC callouts • Police frontline training and skills development • Using options under the <i>Young Offenders Act 1997</i> as an alternative to court • Feeding back operational trends, issues and outcomes to the State-wide Steering Committee
Legal Aid	<ul style="list-style-type: none"> • Priority partner on the State-wide Steering Committee • Reporting on matters where it is evident that the Joint Protocol has not been applied as an alternative to court

	<ul style="list-style-type: none"> Reporting operational trends, issues and concerns to the State-wide Steering Committee
Aboriginal Legal Service	<ul style="list-style-type: none"> Priority partner on the State-wide Steering Committee Reporting on matters where it is evident that the Joint Protocol has not been applied as an alternative to court Reporting operational trends, issues and concerns to the State-wide Steering Committee
ITC Hubs	<ul style="list-style-type: none"> Actively participating in the design of Local Implementation plans Supporting frontline staff to follow Joint Protocol operational guidelines Devising local strategies to minimise unnecessary Police call outs Devising in-house operational procedures when responding to incidents Reporting operational trends, issues and concerns to the State-wide Steering Committee

Analysis of key initiatives

The table below provides an overview of key internal projects that are relevant to improving OCG's public reporting.

Progress formula:

- Completed
 ● On-track
 ● Remedial action required
● Urgent action required

Project/Initiative	Analysis	Status	Impact
On-line Training Modules	<p>There are 8 online training modules that were launched in July 2021. The OCG has assessed these modules and determine that they are of high quality, however there is scope to include additional training targeted at working with Aboriginal children. This could be addressed by investing in additional training modules targeted at front-line staff and focused upon cultural competency and trauma informed approaches.</p> <p>A six-monthly training audit should be undertaken ongoing, to ensure that new staff have access to training and induction within acceptable timeframes.</p>	●	High
State-Wide Steering Committee	<p>The State-wide Steering Committee has been operational for several years. Over this time the committee has failed to deliver a State-wide Implementation Plan and this has compromised the ability for ITC Hubs to design and implement Local</p>	●	High

Implementation Plans. These plans are essential for an accountable, coordinated and effective implementation of the Joint Protocol.

There is still no credible data available despite the State-wide Steering Committee meeting for several years. There is an urgent need to focus on increasing stakeholder accountability.

Senior stakeholders and partners expressed support for independent oversight of the Joint Protocol at their meeting on 8 November 2021. State-wide Steering Committee members should develop options for oversight in early 2022.

**Operational
Issues Group
(OIG)**

Stakeholders have reported that the OIG currently has limited capacity to respond to issues in a timely manner. Anecdotal reports suggest that a proportion of police call outs occur outside regular business hours and it is challenging for ITC staff to seek professional advice and support when needed.

The OIG should invest in a better method of capturing data on reported barriers to identify trends - so that solutions can be devised to address common issues.

The membership of the OIG needs to be reviewed and refreshed with a focus on ensuring that key decision makers are involved to drive responses to operational issues as they arise.

The establishment of Localised Operational Issues Groups for each ITC Hub would improve responsiveness and accountability. The roles and responsibilities for these groups should be defined via local partnerships and in the scope of Local ITC Implementation Plans.



High

**State-wide Joint
Protocol
Implementation
Plan**

The Joint Protocol 2019 emphasises the need for a State-wide Implementation Strategy. This Strategy needs to be developed as a matter of urgency and should focus on the following key elements:

- Clarification of all stakeholder roles and responsibilities
- Clear delivery timeframes for improved data capturing systems



High

- Clear delivery timeframes, requiring local ITC hubs to develop Local Implementation Plans
- Clear planning to support an independent and objective evaluation of the Joint Protocol (once better data capturing is established)
- Clear standards that stakeholders subscribe to, including in relation to mandatory training for front-line staff.

ITC Local Implementation Plans

The Joint Protocol 2019 emphasise the need for each of the nine ITC Hubs to have a Local Implementation Plan. These plans are essential to coordinate stakeholder efforts, to ensure that frontline staff have access to training and supports and to ensure that localised implementation efforts align to the spirit and purpose of the Joint Protocol.

Many stakeholders reported that the Joint Protocol is negatively impacted by staff turnover, particularly within the police. Local Plans would enable new staff to step into the Joint Protocol with a clear understanding of their roles and accountabilities if effective localised plans are in place.



High

Data Pilot

A data pilot was initiated in early 2021 to capture client demographics and other statistics to assist with measuring the impact of the Joint Protocol. The pilot was subsequently abandoned due to operational deficiencies and a breakdown of data capturing systems.

In November 2021, the OCG presented to the State-wide Steering Committee and it was agreed that an Officer Level Working Group be established to develop a data collection strategy.

The OCG strongly recommends that the strategy focuses on the following elements to ensure that data collection is accurate, credible and meaningful:

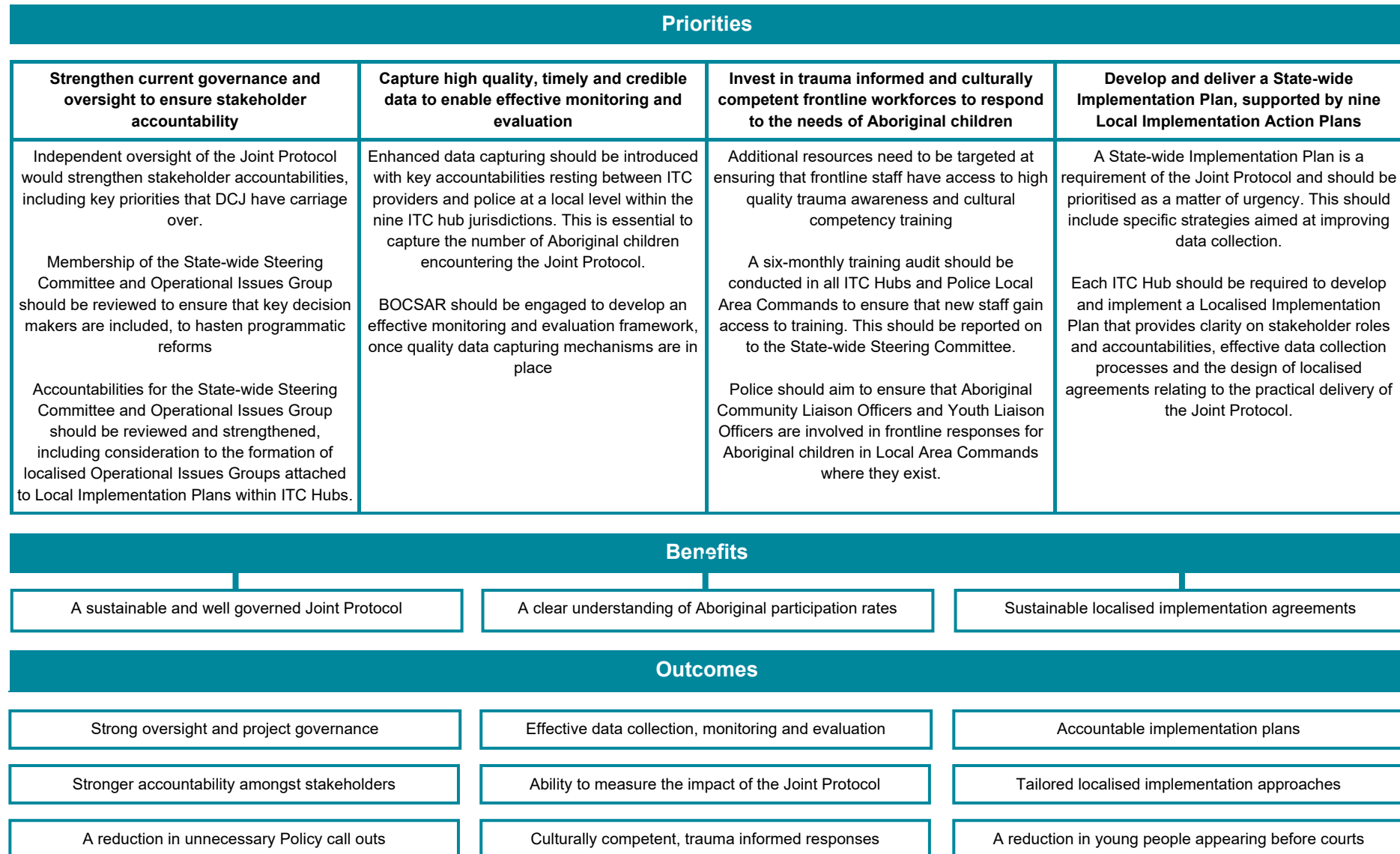
- Data must be collected at the frontline by residential OOHHC providers.
- Demographics need to capture the age of the young person, their Aboriginality status, the nature of the issue that prompted the police being called and the time and date of the callout.



High

-
- Data must record whether police that attended to the callout are indeed aware of the Joint Protocol. This should be established as a standard practice when police are called to respond to all incidents in residential OOHC in all nine ITC Hubs.
 - Police should report on the action taken in response to each call out, including whether they applied options under the *Young Offenders Act 1997*, charged the person or took no action at all.
 - Each of the nine ITC Hubs should provide a quarterly data report to the State-wide Steering Committee on these matters.
 - The State-wide Steering Committee should compile that data and store it on a central database to support a formal evaluation of the Joint protocol once sufficient data has been collected.
-

Action Plan



Review 6

Effectiveness of the internal complaint handling system within the Department for Communities and Justice for people involved in the child protection system.

Overview

An effective and efficient complaints handling system achieves three goals.²³ First, it resolves problems that individuals may be facing with an organisation. Second, it can restore the complainant's confidence in the organisation and in public administration. Finally, a complaints-handling system is effective if it enables high-quality data collection and management, and the data is used to identify systemic issues that are addressed through qualitative improvements to practice.²⁴

The Davis Review highlighted a range of challenges that Aboriginal communities face in navigating the complaints handling system of the DCJ, including concerns about improper handling of complaints by departmental staff that are the subject of the complaint. The review also highlighted mistrust and hesitancy among Aboriginal communities to file or pursue complaints, sometimes due to fear of retribution. Much of this reported hesitancy is attributable to a legacy of Aboriginal children and families encountering systemic racism, bias, and discrimination in the way that the child protection system has responded to their needs.

Recommendation 10 of the Davis Review stated:

The Department of Communities and Justice should conduct an independent review of its internal complaints handling system, with a view to developing a complaints system that is: (a) transparent and accessible; (b) child friendly; (c) empowered to resolve complaints adequately; (d) developed in consultation with Aboriginal communities; and (e) supported by a Charter of Rights and Responsibilities for Aboriginal Families.

Stakeholder consultations highlighted those concerns raised by the Davis Review remain ongoing and need to be reviewed in depth. There needs to be greater focus, funding and strategic efforts being targeted at building a culturally responsive, trauma informed, accessible and accountable complaints handling system.

²³ Michael Manthorpe, Foreword, Better Practice Complaint Handling Guide, Commonwealth Ombudsman, available at <https://www.ombudsman.gov.au/publications/better-practice-guides/Better-practice-complaint-handling-guide> (last visited November 26, 2021).
²⁴Id.

Review Priorities

Priority	Rationale
Adequacy of the DCJ response to the recommendations of the Davis Review	In response to the recommendations of the Davis Review, DCJ appointed PwC to conduct an internal audit of its Enquiries, Feedback and Complaints Unit (EFCU). The OCG recommends an investigation into whether the audit fully addresses the concerns of the Davis Review.

Stakeholders

The table below depicts the key stakeholders that are critical to this review priority.

Stakeholders	Description
DCJ Enquiries, Feedback and Complaints Unit (EFCU)	The EFCU provides a centralised intake and referral point for complaints about Community Services from across NSW. The majority of complaints are managed and resolved by a Complaints Officer, however, approximately 6 percent are referred by email to relevant Districts/Business Units for local resolution.
Pricewaterhouse Coopers	PwC was engaged by DCJ to conduct an internal audit of complaints handling managed by the EFCU.
Other relevant stakeholders	<ul style="list-style-type: none">• Aboriginal Legal Service (ALS): The ALS Care and Protection law practice provides culturally safe legal and non-legal assistance to Aboriginal parents, families, and children involved with the child protection system.• CREATE Foundation is the peak body representing the voices of children and young people in OOHHC.• DCJ Aboriginal Reference Group is an advisory group of Aboriginal employees working with DCJ that provides consultations and advocacy for DCJ work that may affect NSW Aboriginal families, clients, and communities.• Waminda is an Aboriginal-led organisation in the South Coast that provides quality health and well-being support to women and their Aboriginal families. Waminda also designed the Nabu program as an intensive family support program for Aboriginal families.• Statutory OOHHC service providers are those that have been accredited (provisionally or fully) to arrange the provision of statutory OOHHC.

Analysis of key relevant initiatives

The table below provides an overview of key projects initiated in response to the recommendations of the Davis Review.

Progress formula:

- Completed ● On-track ● Remedial action required
- Urgent action required

Deliverable	Analysis	Progress	Impact
PwC Audit	<p>The OCG Family is Culture team was provided with the PwC scope of work in May 2021, following which a consultation was arranged with the PwC audit team in June 2021.</p> <p>In September 2021, we were advised by the EFCU that that PwC had finished their final draft report. The EFCU presented a brief overview of the PwC audit's findings to the OCG Family is Culture team as the report was pending approvals and was not available for distribution.</p>	●	High
NSW Ombudsman's review of DCJ's internal complaints handling system	<p>Following consultation with the Children's Guardian and the Deputy Children's Guardian, the NSW Ombudsman wrote to the Children's Guardian in February 2021 confirming that in line with the NSW Ombudsman's existing statutory function under Section 14 of the <i>Community Services (Complaints, Reviews, and Monitoring) Act 1993</i>, the Ombudsman's Office intends to initiate a review of the complaints system within DCJ for people involved in the child protection system, including a close focus on matters specifically identified in the Davis Review. The letter also noted the Ombudsman's intention to work closely with the OCG, and particularly the Deputy Children's Guardian, to determine the scope and methodology of the review and in the conduct of the review itself.</p> <p>In April 2021, the Ombudsman's office confirmed that it would delay undertaking a review of DCJ's complaints handling system until it had the opportunity to review the findings of the PwC audit.</p>	●	High

Enabling better outcomes

The following opportunities have been identified to improve the effectiveness of DCJ's internal complaints handling system.

NSW Ombudsman conduct an independent review of DCJ's internal complaints handling system

Reasoning *Issues highlighted in Davis Review remain ongoing:*

Stakeholders have reported that as highlighted in the Davis Review, Aboriginal families remain hesitant to file complaints to DCJ. Stakeholders reported that in their experience complaints made to DCJ don't go anywhere, and often complaints are transferred to the team of the caseworker that is the subject of the complaint. ALS reported that they inform clients of their ability to make a complaint via the internal system, but also advise the family of the legal options available to them and what ALS can do on their behalf in this regard.

Some stakeholders also reported that while they encourage families involved with their service to speak up, or provide them support through the complaints handling process, families not involved with their service find it difficult to know their rights to complain. It was also highlighted that families are hesitant to file complaints because of the risk of being perceived as "resistant" and having their children removed.

Finally, some stakeholders stated that it is critical for complaints to be handled in a culturally responsive way. It was reported that families do not have much awareness about the complaints handling process and the outcome of their complaint. The letters sent to families are hard to understand and don't always include any tangible outcomes relevant to the complaint. Stakeholders highlighted that the process can be quite lengthy and that there isn't an individualised approach taken to support and engage with complainants.

Concerns regarding PwC Audit:

We have some concerns following our review of PwC's scope of work and after consultations with the EFCU and PwC audit team:

- There are significant limitations with the sample size of the audit, specifically in terms of complainants engaged.
- A random sample of 20 complaints and 10 enquiries were reviewed to understand DCJ's compliance with documentation, KPI's and complaint handling requirements.
- The Complainant Experience survey was offered to 20 randomly selected clients, of which seven engaged with the survey.
- Additionally, a Stakeholder survey was offered to 27 out of 63 NGO's, of which 20 responded. Interviews were conducted with staff in seven districts out of 15.

-
- The audit has not focused on engaging Aboriginal complainants to understand their experiences of the complaints handling process.

The Complainant Experience survey and review sample of complaints and enquiries were randomised and did not include specific numbers on Aboriginal complainants.

- The audit has had limited focus on reviewing the qualitative experience of complainants. The final recommendations of the audit are more focused on procedures or processes and data collection.
- The audit does not fully address the concerns highlighted in the Davis Review. The Davis Review highlighted concerns about departmental staff not investigating complaints efficiently and professionally and retributive action being taken against complainants. Several staff were interviewed across DCJ, including staff at seven district offices, but it is also important to receive feedback about these issues from the viewpoint of complainants themselves.
- The EFCU also reported that this has been the tenth audit conducted of their unit in the past ten years.

An audit limited to the processes and procedures used at the EFCU level and which is not focused on the experience of Aboriginal complainants does not fully address the concerns raised in the Davis Review. The issues with DCJ's internal complaints handling system are more extensive. It is critical that there is an agency wide review of how the Department collects, handles, and resolves complaints and of the reform needed to address the hesitation and mistrust felt by Aboriginal parents, children, families, and communities which prevents them from filing complaints.

Actions

- The NSW Ombudsman should conduct an independent, system wide review of DCJ's internal complaints handling system. This independent audit should consider:
 - Whether DCJ's internal complaints handling system satisfies the Commitments to Effective Complaints Handling for Aboriginal complainants in practice. This review notes that the PwC audit has undertaken a policy and procedure review to assess alignment of DCJ complaints handling policy and procedures to the NSW Government's Commitments to Effective Complaints Handling.
 - Focus the review on the qualitative experience and needs of Aboriginal complainants- including families, children, carers, community members or organisations seeking to support Aboriginal complainants. This may require extensive engagement with Aboriginal people involved in the child protection system.
 - The potential need for the EFCU to have Aboriginal staff members to engage directly with Aboriginal complainants.
 - Liaising with the DCJ project team responsible for implementing Recommendation 62 of the Davis Review that is focused on developing a
-

-
- child-friendly system to encourage children in OOHC to report safety concerns and harm occasioned in OOHC placements.
 - Ways in which Aboriginal complainants can be supported through the process and the reform required in the complaints handling system to assure Aboriginal complainants that their complaints will be handled transparently.
-

Outcomes/ Benefits An independent review of DCJ's internal complaints handling system is critical to improving DCJ's accountability in receiving and resolving complaints in a fair and transparent manner.

DCJ should implement managerial actions outlined in response to the findings of the PwC audit, pending a full independent review of the internal complaints handling system

Reasoning The findings of the PwC audit, and the actions proposed in response to the findings, were shared with the OCG via an online presentation. While more work is needed to review the complaints handling system to ensure that complaints mechanisms are functioning well, responsive and efficient for Aboriginal and Torres Strait Islander complainants, the findings of the PwC audit are important and must be addressed in the interim.

The PwC audit found that:

1. Not all complaints are communicated to the EFCU
2. KPI's are not consistently measured or met
3. Reporting is not consistently performed
4. The complaints process does not fully align with the Complaints Handling Improvement Program
5. Local/District offices apply inconsistent approaches to complaints handling
6. Policies and procedures are incomplete or out of date

Actions

- The OCG notes that the following managerial actions proposed by the EFCU are key to improving the complaints handling system for Aboriginal complainants, in terms of accessibility and experience:
 - Further training for districts to ensure all complaints filed directly at the district/local level are communicated to the EFCU.
 - Receiving higher-level system access to complaints filed directly with the Minister's Office.
 - Updating the website and printed materials located at district offices to provide clients with more information about how to make complaints, and the complaints handling process.
 - Improving communication with clients, especially when there are delays in the complaint resolution process

-
- Addressing inconsistent approaches to complaints handling between district and local offices through further training and increased oversight.
 - Designing and distributing regular surveys (in consultation with DCJ Aboriginal Casework Specialists) to collect feedback from clients, specifically including Aboriginal and Torres Strait Islander clients.
-

Outcomes/ Increased training, improved data collection and stronger communication with
Benefits clients will facilitate better complaints handling practice across the Department.

Review 7

Improvements to public reporting by the Office of the Children's Guardian on the accreditation of statutory out-of-home care agencies

Overview

The OCG is an independent statutory authority within the Stronger Communities cluster of the NSW Government. The principal purpose of the Children's Guardian is to regulate organisations and persons providing services to children to uphold the rights of children and young persons to be safe.

A significant aspect of this regulatory function is the accreditation and monitoring of agencies that provide or seek to provide statutory OOHC services in NSW. The NSW Child Safe Standards for Permanent Care form a significant part of the NSW accreditation scheme.²⁵ These standards establish the minimum requirements for the accreditation of statutory OOHC providers.

The Davis Review raised several concerns about a perceived lack of transparency regarding the regulatory functions of the OCG regarding the statutory OOHC sector. It highlighted that it was critical for the OCG to publish more information related to the OCG's regulation of the sector and the performance of agencies. As per the Davis Review, providing increased access to information would increase public confidence in the sector and encourage public debate about related issues. It would also encourage best practice and improve compliance by enabling comparisons between agency performance and provide more information to the families, kin, and communities of children in care.

Recommendation 18 of the report relates specifically to the focus of this chapter:

The Office of the Children's Guardian should be required to: (i) publish its compliance inspection reports; (ii) provide these reports to the NSW Parliament; and (iii) publish annual summaries of its inspections, as well as its findings from any research and consultation.

The Children's Guardian acknowledges the importance of transparency and accountability in decision-making to support public confidence in the statutory OOHC system and is committed to improving access to information related to the performance of the statutory OOHC sector.

²⁵ NSW Child Safe Standards for Permanent Care 2015, available at <https://www.ocg.nsw.gov.au/statutory-out-of-home-care-and-adoption/nsw-standards-for-permanent-care>

Review Priorities

Priority	Rationale
Identify stakeholder information needs and gaps related to accreditation and monitoring of statutory OOHC	As also highlighted by the Davis Review, stakeholder engagements conducted by the OCG Family is Culture team highlighted that there is limited awareness about how the OCG accredits and monitors agencies and the NSW Standards for Permanent Care against which agencies are assessed. A priority for this review has been to identify the types of information that are important for all relevant stakeholders to receive.
Ensure recommendations find a balance between the OCG's responsive regulatory approach and the need to improve accountability and transparency	The OCG uses a responsive regulatory approach to ensure a high standard of OOHC. This approach is based on the belief that the interests of children and young people in OOHC are best served by focusing on capability building and continuous improvement. The OCG does not believe that "naming and shaming" agencies will achieve better compliance across the sector. However, the OCG recognises the critical need to assure the public of the OCG's role in ensuring that agencies are meeting the required standards of care. Therefore, this review has prioritised the need to strike a balance between the OCG's regulatory approach and increasing access to information related to the performance of OOHC agencies.

Stakeholders

The table below depicts the key stakeholders that are critical to this review priority.

Stakeholders	Description
OCG OOHC Regulation	The OCG OOHC Regulation Directorate is responsible for accrediting and monitoring the performance of OOHC providers and certifying that agencies are meeting the NSW Standards for Permanent Care.
Designated agencies	Statutory OOHC service providers that have been accredited (provisionally or fully) to arrange the provision of statutory OOHC.

-
- Other relevant stakeholders**
- Aboriginal Legal Service (ALS): The ALS Care and Protection law practice provides culturally safe legal and non-legal assistance to Aboriginal parents, families, and children involved with the child protection system.
 - CREATE Foundation is the peak body representing the voices of children and young people in OOHC.
 - DCJ Aboriginal Reference Group is an advisory group of Aboriginal employees working with DCJ that provides consultations and advocacy for DCJ work that may affect NSW Aboriginal families, clients, and communities.
 - Academics/Policy Researchers:
 - Dr Paul Gray is a Wiradjuri man from NSW and leads the Indigenous child protection hub at University of Technology Sydney Jumbunna Institute of Indigenous Education and Research.
 - Research Centre for Children and Families, University of Sydney: The Research Centre for Children and Families contributes to policy and practice-relevant research to inform cross-government reforms currently underway across the human services sector using a rights-based approach.
-

Analysis of key relevant initiatives

The table below provides an overview of key internal projects that are relevant to improving OCG's public reporting.

Progress formula:

- Completed
 ● On-track
 ● Remedial action required
● Urgent action required

Deliverable	Analysis	Progress	Impact
Review of accreditation and monitoring framework	<p>In October 2021, the OCG commenced a review of the accreditation and monitoring framework for statutory OOHC and adoption service providers. The review seeks to address a range of challenges in the statutory OOHC and adoption sector, including the capacity of the sector to provide culturally safe care for Aboriginal children and young people.</p> <p>The review has also proposed a restructure of the OCG's accreditation renewal and monitoring processes to provide for briefer, but more regular monitoring of agency practice. The review proposes that agencies will receive a monitoring visit every 12-18 months. Each monitoring</p>	●	High

	<p>assessment will address a minimum of 5 core themes, the remaining 6 focus themes will then be assessed throughout the following assessments. Each theme encompasses several of the Permanent Care standards.</p> <p>The review of OCG's accreditation and monitoring framework is relevant to recommendations to improve OCG's public reporting as any regular reporting on sector/agency practice will need to align with the revised framework.</p>		
Legislative review	<p>The OCG is seeking amendments to the CG Act to provide greater clarity regarding the role of the Deputy Children's Guardian and the Children's Guardian's accreditation functions. Currently, the Children's Guardian's accreditation functions include monitoring and investigations, but are not described in these terms. The statutory review will commence in March 2022.</p> <p>An accurate description of the role and these functions in legislation will enable greater clarity about the regulatory function of the OCG across the sector.</p>	●	Medium
OCG website project	<p>The OCG is currently in the process of redesigning the website and has engaged an external agency, Digital Garden. As of November 2021, the design phase of the web project is complete.</p> <p>The project has considered Aboriginal impact and seeks to make information for Aboriginal people easier to find and access. Project documents highlight that the recommendations of this review can be incorporated into the new website once agreed.</p>	●	High
Review of NSW Permanent Care standards	<p>The OCG had decided to conduct a review of the NSW Permanent Care Standards in 2021. However, the review of the standards has been postponed given the challenges of the pandemic on the sector and the decision to prioritise the</p>	●	Medium

work underway within the OCG to review the accreditation and monitoring framework.

The review of the NSW Standards for Permanent Care is relevant to this review of OCG's public reporting because the public will need to be informed of any changes to the standards. Additionally, the review will also need to consider relevant changes to information that is reported publicly.

Enabling better outcomes

The following opportunities have been identified to improve OCG's public reporting on the accreditation and monitoring of statutory OOHC agencies.

Release and promote more information related to OCG's accreditation and monitoring framework

Reasoning A common theme that emerged from consultations conducted as part of the Aboriginal Engagement Strategy, and the Davis Review, was that the OCG should release more information about the accreditation and monitoring framework.

The ALS reported that it would be useful for them to know more about the standards and the OCG's accreditation and monitoring framework to support their clients through court and to relay information to the court about the quality of care the child is receiving. CREATE Foundation reported that children and young people do not have much awareness about the standards and the OCG's framework, and that it would be useful for children to receive more information about their rights around case planning. More information about the standards and how the OCG assesses an agency's casework practice will be useful to build children's awareness in this area. This will involve investment in targeted resources that are child-appropriate and presented in plain language that is easy to comprehend. Additionally, the DCJ State ARG reported that they would like to see more information from the OCG regarding an agency's performance in relation to family time and cultural care plans.

Designated agencies that responded to the surveys highlighted that most families and carers of children in care are not aware of the regulatory work of the OCG.²⁶ Agencies reported that families and carers would be interested in receiving more information about priority issues impacting children and young people in OOHC, more information about the accreditation and monitoring framework, and trends in practice issues across the OOHC sector in NSW.

²⁶ The OCG surveyed 17 Aboriginal and 33 non-Aboriginal OOHC providers. 9 out of 17 Aboriginal providers and 12 out of 33 non-Aboriginal providers responded to the surveys.

Actions	<ul style="list-style-type: none"> • The OCG should develop and publish materials describing the accreditation and monitoring framework in plain English. These materials should be published online and circulated to organisations across the wider sector, including but not limited to, organisations such as ALS, CREATE, DCJ District offices. These materials could also direct interested parties to the OCG Accreditation and Monitoring e-newsletter for updates. • The OCG should conduct more outreach activities within the wider sector regarding the OCG's accreditation and monitoring function. For example, some organisations like the CREATE Foundation conduct monthly youth advisory councils that external agencies may be invited to speak at. These types of opportunities may be important for the OCG to consider for building public confidence in the OOHC sector. This review notes that resource constraints may cause delays or hinder outreach activities. It may be useful to consider ways in which other teams within the OCG may be able to support the OOHC Regulation Directorate with outreach. • The review of the OCG's accreditation and monitoring framework should incorporate a methodology for updating information released prior to completion of the review. • The OCG website redesign project should promote OCG's accreditation and monitoring function in response to the findings of the Davis Review. • A legislative review of the CG Act should consider providing greater clarity regarding the Children's Guardian's monitoring and investigative functions of designated agencies and accredited adoption service providers. This will ensure consistency in messaging.
Levers and Interlinkages	<ul style="list-style-type: none"> • OCG website redesign • Legislative review of CG Act • Review of OCG's accreditation and monitoring framework
Outcomes/ Benefits	<p>Greater clarity and certainty about the OCG's regulation of the statutory OOHC sector will increase public confidence in the sector. It may also have the effect of encouraging public debate and related research that may spark improvements to existing practice.</p>

Release more information when an agency's accreditation is deferred or suspended or cancelled including actions undertaken by the Children's Guardian to encourage compliance and address non-compliance

Reasoning One of the main concerns highlighted by the Davis Review was that the OCG does not use powers to suspend or cancel accreditation and agencies can continue providing OOHC services while working towards satisfying accreditation criteria. Additionally, the review stated that the OCG should reassure the public about "steps taken to rectify failures of OOHC agencies to ensure the safety and well-being of children."²⁷ Some stakeholders we consulted reported that they were unclear about the OCG's regulatory function and had concerns about the quality of care that agencies provide.

The OCG's webpage on "Designated Agencies" is updated when an agency's accreditation has been deferred, suspended or cancelled. The OCG's annual report also provides data on numbers of agencies that were deferred, suspended or cancelled, and when the OCG undertakes a responsive monitoring visit. However, the website and the annual report do not provide information about the reasons for not immediately renewing an agency's accreditation or the OCG's responses to encourage compliance and address non-compliance, including any specific conditions or increased monitoring. This has led to confusion and uncertainty about the OCG's role to address non-compliance.

- Actions**
- The OCG should consider releasing additional information when an agency's accreditation is deferred/suspended/cancelled. This review notes that the release of such information is subject to any order of the NSW Civil and Administrative Tribunal as per Sections 64 (1) (a), (b) and (c) of the *Civil and Administrative Tribunal Act 2013*. The types of information that the OCG could consider releasing in this regard include:
 - Brief overview of reasons for deferral, suspension, or cancellation
 - In cases where the agency's accreditation renewal is deferred, the actions the OCG has undertaken to encourage compliance or address non-compliance, and regular updates about the agency's progress to improve compliance
 - In cases of suspension or cancellation of an agency's application for accreditation renewal, actions taken to ensure the safety and wellbeing of children in their care
 - The OCG should liaise with the NSW Civil and Administrative Tribunal to develop appropriate policies/guidelines related to the release of such information.

²⁷ Davis Review, p. 115

	<ul style="list-style-type: none"> • The OCG website redesign project should consider appropriate templates for the release of this information. • The review of the OCG's accreditation and monitoring framework should incorporate a methodology for release of this information.
Levers/	<ul style="list-style-type: none"> • OCG website redesign
Interlinkages	<ul style="list-style-type: none"> • NSW Civil and Administrative Tribunal • Review of OCG's accreditation and monitoring framework
Outcomes/	Release of this information is critical to greater transparency and accountability.
Benefits	It will improve public confidence in the OCG's role as regulator when agencies are assessed as non-compliant.

Regular reporting on the out-of-home care sector

Reasoning	<p>The Davis Review highlighted that the OCG should publicly release detailed information about the OCG's monitoring of the OOHC sector, including information related to agency practice issues and sector trends. Stakeholders highlighted that more information about the OOHC sector will enable greater transparency, debate, and contribute to evidence-based research on how children and families fare in OOHC.</p> <p>Nearly 73 percent of non-Aboriginal designated agencies and 56 percent of Aboriginal agencies that responded to surveys conducted, highlighted that increased data and information on the practice and performance of other agencies would be useful.²⁸ The surveys highlighted that agencies would primarily like more information on trends in practice issues across the OOHC sector and trends in practice issues impacting agencies by DCJ District. Some agencies that engaged in separate online forums reported that more information about common issues across regions/DCJ Districts will facilitate networking and enable them to raise issues at DCJ District inter-agency meetings.</p>
Actions	<ul style="list-style-type: none"> • The OCG should consider opportunities for improved data collection and management to better identify systemic trends and issues. Some types of data that may be useful to release include: <ul style="list-style-type: none"> - Trends in reportable conduct notifications, OCG responses and related outcomes. Some of this information is already included in the OCG annual report. - Trends in complaints made against agencies, and OCG Accreditation and Monitoring team responses in cases of higher frequency of complaints, by agency or type of complaint, and related outcomes - Measures of agency compliance against each Permanent Care Standard

²⁸ See supra note 2.

- Outcomes of OCG's regulatory responses to non-compliance
- Data on agency performance by DCJ District, annually or every two years

Other types of information that should be considered for inclusion in these reports include:

- Trends in practice issues across the OOHC sector, and by DCJ District
- Actions undertaken by the OCG to support the OOHC sector and improve compliance, and related outcomes
- The review of the OCG's accreditation and monitoring framework should incorporate a methodology for release of this information. The proposed changes to the frequency of monitoring (every 12-18 months) and the proposed changes to the monitoring framework in terms of assessment of five core themes and six focus themes are also relevant to determining the content of sector reports and the frequency of their release.

Levers/	• Review of OCG's accreditation and monitoring framework
Interlinkages	• OCG Information Management Committee

Outcomes/ Benefits	Releasing regular reports on the state of the OOHC sector will promote greater transparency and accountability for the OCG and designated agencies which will increase public confidence in the sector. These reports may also serve to facilitate better networking between agencies and enable them to conduct targeted engagements with regulators such as the OCG and DCJ.
-------------------------------	--

DCG special reports on the out-of-home care sector from an Aboriginal and Torres Strait Islander perspective

Reasoning	<p>As part of the NSW Government response to the Davis Review, the OCG appointed an Aboriginal Deputy Children's Guardian. The role of the Deputy Children's Guardian is designed to elevate the rights and wellbeing of Aboriginal children and young people in care. Following consultation with a range of experts and Aboriginal community stakeholders, a key focus area for the Deputy Children's Guardian will be to prepare and release independent reports on priority issues that are impacting on Aboriginal children and families.</p> <p>Some stakeholders reported that releasing information about the impact of the OCG's accreditation and monitoring framework on Aboriginal children and young people would build the community's confidence regarding the well-being of Aboriginal children once the state has stepped in. Stakeholders also stated that reports centred on the needs of Aboriginal children would have the added benefit of developing evidence to inform changes in policy and practice to improve outcomes. This includes ways in which the OCG's accreditation and</p>
------------------	--

monitoring framework could be continuously improved to align with community standards and expectations.

- | | |
|----------------|--|
| Actions | <ul style="list-style-type: none">• The legislative review of the CG Act should consider amending Section 133 (2) (a) of the CG Act which precludes delegation of the function to make a report under this Act, other than to an Assistant Children's Guardian.• The DCG should further engage with key Aboriginal stakeholders within the child protection sector, and the wider community, to gain a strong understanding of the types of information that the community would like reported to ensure the reports align with their expectations and to receive ongoing, targeted feedback on reported outcomes.• The DCG should consider establishing an Aboriginal children and youth advisory council comprising of Aboriginal children and young people in OOHC to advise the DCG in advance of the publication of each report.• The OCG should identify Aboriginal specific data that should be released publicly, and gaps in data collection if any.• In addition to feedback received from the community, other types of information that should be considered for inclusion in these reports include:<ul style="list-style-type: none">- The role of the OCG in ensuring compliance with the Aboriginal Child Placement Principles and the ACMP.- Experience of Aboriginal children, young people and families with agency casework practice, ADR facilitated by agencies, carer assessments and selection completed by agencies, implementation of the Joint Protocol, and agency complaints handling mechanisms.- Analysis of Aboriginal-led OOHC services across regions/DCJ Districts |
|----------------|--|
-

- | | |
|----------------------------------|---|
| Levers/
Interlinkages | <ul style="list-style-type: none">• Legislative review of CG Act• OCG Information Management Committee |
|----------------------------------|---|
-

Outcomes/ Benefits	Regular reporting on the experience of Aboriginal and Torres Strait Islander children, young people, families, and communities in the OOHC system will enable the OCG and designated agencies to be more accountable to the Aboriginal community.
-------------------------------	---

Investigate publishing report cards on the performance of individual agencies measured against the NSW Permanent Care Standards

Reasoning The Davis Review recommended that the OCG make accreditation and feedback reports public, like the approach taken by the Office for Standards in Education, Children's Services and Skills in the United Kingdom. The Davis Review also recommended that the OCG provide these reports to Parliament.

Internal stakeholders have highlighted some concerns with publishing agency feedback reports as currently written. At present, feedback reports sent to agencies throughout the accreditation and monitoring process are written specifically for agencies and include limited context. Additionally, they often contain sensitive information about staff, children and young people that would be inappropriate to make public. Therefore, it will be important for the OCG to consider different templates to release information on the performance of individual agencies.

Most external stakeholders consulted did not highlight the need to view individualised agency feedback reports about agency performance. However, ALS reported that it would be beneficial for them to receive more information about how individual agencies are performing to better support clients in court and to relay information to the court about the quality of care that a child may be receiving. This is especially useful when parents feel that the placement is not being adequately managed. DCJ State ARG members also raised concerns about the performance of some agencies and highlighted the need for more evidence to investigate agency practice when a family is concerned about placement management. Some others reported that releasing more information about individual agency performance would be beneficial to improve transparency.

The results from the surveys of designated agencies were mixed.²⁹ Nearly 37 percent of non-Aboriginal agencies and 67 percent of Aboriginal agencies reported that the OCG publishing more information about agency performance would have no impact on their agency. 27 percent of non-Aboriginal agencies and 22 percent of Aboriginal agencies reported that this would have a negative impact. Some concerns raised included:

- Increased reporting on agency performance would run the risk of creating a generic perspective of agencies irrespective of the quality of casework.
- Agencies that have seen considerable growth overseen and encouraged by DCJ have not received enough support in terms of appropriate business planning, staff retention and sustainability. This has led to unsustainably high caseloads and resulted in non-compliance with the Permanent Care Standards in certain cases. Publishing results related to agency

²⁹ See supra note 2.

performance would be detrimental to the relationships between agencies and carers.

Nearly 37 percent of non-Aboriginal agencies and 11 percent of Aboriginal agencies reported that increased reporting on agency performance may have a positive impact. One agency commented that this could lead to positive reinforcement of practice, encourage performance development and potentially assist in growth sustainability activities. Another suggested that it would promote their agency as a service of choice.

Actions

- The OCG should consider different templates to release more information on the performance of individual agencies as measured against the standards. The proposed changes to the accreditation and monitoring framework will assist in the development of these templates due to the possibility of increased frequency of monitoring (every 12-18 months) and the proposed changes to the monitoring framework in terms of assessment of five core themes and six focus themes.
- The OCG should consider including the following information in these report cards:
 - Audit trail: including interviews conducted, files and other documents reviewed, and observations
 - Infographic demonstrating agency performance measured against each theme/ each standard. For example, see quality rating certificates issued by the Department of Education to early childhood education and care providers.
 - Summary of findings identified areas for improvement, OCG regulatory responses, if any, outcomes of any previous regulatory responses to non-compliance undertaken by the OCG.
- The ways in which the OCG assesses agencies against the NSW Standards for Permanent Care does not adequately consider the quality and strengths of systems and practice of Aboriginal agencies.³⁰ If the OCG considers releasing report cards prior to the review of the Standards, the report cards should account for the unique strengths and qualities of Aboriginal OOHC providers.
- Any template to release information on the performance of individual agencies must give due consideration to the following:
 - The need to omit sensitive information about agency staff, families, and children
 - Orders of the NSW Civil and Administrative Tribunal

Levers/

- Review of OCG's accreditation and monitoring framework
-

30 NSW OCG, OCG Review of NSW Child Safe Standards for Permanent Care- Summary of consultation with the Aboriginal OOHC sector (November 2020) (on file)

Interlinkages • Review of NSW Permanent Care standards

**Outcomes/
Benefits** Releasing information related to the performance of individual agencies will enable greater transparency and accountability. It will also support information needs of stakeholders within the sector that work with parents and families with concerns about the management of an OOHC placement. Releasing such information may also enable competitive benchmarking by comparing agencies against set metrics. This may support improvements to agency performance.

Attachment A – Areas for Additional Consideration

In addition to the specific request on the impact of recent reforms the Minister also requested that the OCG provide advice on areas where additional change could be considered. Aboriginal people are seeking transformational change to the child protection system to stop the ongoing removal of children and young people from their families and culture. Giving attention to the following issues as reforms are implemented will help create the enabling environment for change to occur.

These four areas of focus are discussed below: Building community confidence and trust, leadership at the district level, self-determination, and strategic alignment of this work to the contemporary National Aboriginal and Torres Strait Islander policy landscape.

1. Building Community confidence and trust

The historical consequences of Australia's history cannot be ignored when it comes to Aboriginal people's confidence in government and its services, particularly in the child protection system. It is well recognised that the impact of Stolen Generations has resulted in unresolved intergenerational trauma that continues to impact children, their families, and communities today.

From an Aboriginal perspective, the removal of children (Stolen Generations) which was enabled by the 'Aborigines Protection Acts' of the 20th Century continues today under the headline of child welfare legislation that governs the NSW child protection system. Many Aboriginal people are fearful of government authorities and this fear inhibits help seeking by families when they become vulnerable and in most need of assistance.

The past cannot be changed but government can break down the barriers of fear and mistrust by acting differently. To solve the over-representation issue will also require our Aboriginal leadership in communities and regions to lean into this problem by actively supporting sector and service reform efforts. To address both the suspicion and mistrust of government along with instilling a desire by Aboriginal people to participate in reform efforts will require deeds by the government rather than words.

The success of many elements of the reforms examined in this Special Report rely heavily on Aboriginal community leaders and opinion makers at the local/regional level and our ACCOs engaging collaboratively with government and non-government service providers. The NSW government should explore how it can create a stronger framework for Aboriginal self-determination across the whole of government.

2. Aboriginal and Non-Aboriginal leadership at the District Level

A strong functioning ACCO sector in the NSW child protection system is critical to achieving better outcomes for children. There are many well run ACCO's that are delivering high quality services within a sophisticated model of care that incorporates Aboriginal cultural knowledge. Strengthening and growing this sector will make a

major contribution to addressing the over-representation of Aboriginal children and young people in care.

To enable the system to benefit most from the skills and knowledge in the ACCO sector contractual Agreements should be consistent with the principles for partnership in the CTG Agreement.

The role of non-Indigenous leadership in the DCJ Districts will also play an important role in addressing the over-representation of Aboriginal children in OOH. Many of the reforms needed in the child protection system require a strong commitment to self-determination for Aboriginal people which translates into more meaningful engagement and partnership with ACCO's and Aboriginal community leadership.

For example, implementing the ACMP to its full potential will require a District leadership that is willing to actively engage with the Aboriginal community and services. This is not a small ask. It will require a good understanding of the impact of trauma and the need for healing in Aboriginal communities and respect for Aboriginal culture and the confidence to partner with the community on dealing with difficult issues. Engagement with the Aboriginal community is not a straight-forward process, it requires a level of cultural competency and a willingness to persist in establishing and building relationships. Working through the suspicion that many in the Aboriginal community have of government agencies built up over the last hundred years or so is a significant barrier to be overcome.

There is a complex web of dynamics that operate in Aboriginal communities that are not easy to navigate.

With the right resourcing and District office leadership good working relationships with Aboriginal people can be established. The willingness of DCJ District leaders to empower their Aboriginal staff, many with strong connections to the communities and regions they work in, will help develop new arrangements and strengthen existing ones.

DCJ Districts could achieve change quickly, if resourced properly and provided the other necessary supports and tools that enable change to be implemented whilst concurrently meeting the day-to-day demands of a District Office.

3. Self-determination

Many of the challenges for NSW Aboriginal people in policy areas like housing, child protection, justice, health and economic development seem intractable. At present Aboriginal people's voice to government on these challenges is fragmented because each policy area has its own approach to self-determination and community engagement. This creates competition among departments for Aboriginal peoples' involvement in advisory groups, knowledge circles, committees, forums etc. For the Aboriginal community trying to participate and support multiple efforts across multiple policy domains is a significant burden.

This fragmentation could be addressed by the establishment of a single mechanism for a higher level, whole of government focus on self-determination.

Self-determination has been the key underpinning principle in Aboriginal and Torres Strait Islander Affairs since the early 1970's and has seen the establishment of many community-controlled organisations across a range of policy and service domains, including health, law, land rights, housing, early childhood services and the child protection system. In the last 20 years the concept of self-determination for First Nations peoples has been strengthened by the United Nations Declaration on the Rights of Indigenous People (UNDRIP) and the UN Declaration on the Rights of the Child, both adopted by Australia, along with a range of other key principles like the ATSICPP that impact directly on the child protection and OOHHC systems.

So there exists a robust international and domestic framework of principles and ideas that provide an opportunity for Aboriginal people to effect greater control over their lives within the governance structure of the Westminster system. The most recent call for greater control over our lives came in the Referendum Council's 2017 Uluru Statement that called for an Aboriginal and Torres Strait Islander Voice to Parliament to be enshrined in the Constitution.

However, Aboriginal people's long held ambition for a formally institutionalised mechanism for self-determination to exercise control over the decisions that affect our lives remains unrealised. These important decisions about us continue to remain the domain of government.

The Care Act requires the Minister for Families and Communities to provide the opportunity for Aboriginal people to participate in decisions that affect them (s12), however the scale of over-representation of Aboriginal children and young people in child protection, along with a raft of other social challenges spans across the range of government policy portfolios.

The Minister could consider introducing a discussion within the government about Aboriginal self-determination that goes beyond just a focus on the child protection system. This could be about how Aboriginal self-determination might be consolidated into a single body or mechanism to speak directly to the whole of government and the parliament to advise on Aboriginal policies and priorities. This could be populated by Aboriginal people chosen by their communities or regions to represent them in high level dialogue with the government and parliament. Such a mechanism would be a recognition of Aboriginal people's political status as First Peoples of Australia.

The government can engage directly with grass roots local and regional Aboriginal communities to determine if the desire for a state level institutionalised expression of self-determination exists. An enquiry into this issue would illuminate the contemporary thinking of Aboriginal local and regional leadership and may be the circuit breaker to address Aboriginal people's fears and mistrust in government. Examples of similar large-scale engagements with the Aboriginal community by the NSW government were the consultations around the State led by the then Minister for Aboriginal Affairs to establish the OCHRE Plan in 2011 and the parliamentary inquiry into Reparations for NSW Stolen Generations in 2015. Such an enquiry or consultation process could look at existing community governance models such as the Murdi Paaki Regional Assembly (MPRA), the NSW Council of Aboriginal

Regional Alliances (NCARA) and their constituent regional groups and the Local Decision-Making initiative. It could also look at arrangements in other Australian jurisdictions and internationally to help inform the governments thinking.

4. The National Aboriginal and Torres Strait Islander policy landscape

To deliver transformational change for Aboriginal children and their families the Aboriginal and Torres Strait Islander policy landscape needs to be understood by the child protection system. At the national level there are several 10-year strategies that have been established that impact on Aboriginal and Torres Strait Islander people. These long-term strategies have been agreed to by all levels of government around Australia. These strategies include:

- **Closing the Gap Agreement (2021 – 2031)** – is an updated version of the original CTG strategy commenced in 2008 under the Rudd government. The new version includes Aboriginal organisations through the Coalition of Peaks as partners in the Agreement. Features of the Agreement are 17 targets and most importantly 4 areas for priority reform. This Agreement has been signed by all Australian governments including the Local Government Association and the Coalition of Peaks.
- **Safe and Supported (2021-2031)** is the latest iteration of the National Framework for Protecting Australia's Children. Development of the Framework has been facilitated by SNAICC supporting the National Aboriginal and Torres Strait Islander Leadership Group in partnership with jurisdictional heads of children and family bureaucracies (in NSW it's DCJ). This new framework has been agreed to by Child and Family Ministers at Federal, State and Territory governments.
- **National Aboriginal and Torres Strait Early Childhood Strategy (2021-2031)** is a national strategy that has been developed by SNAICC in partnership with National Indigenous Australians Agency (NIAA) and supported by an Indigenous Advisory Group.

These long-term strategies signal a new way of working with Aboriginal communities based on long term commitment to collaborative partnerships and shared responsibility for delivering outcomes. They are an opportunity for government to step away from business as usual into a relationship with the Aboriginal community centred around meaningful partnerships and shared responsibility for outcomes for children and young people. A new relationship that is borne out of recognition that the current system is failing Aboriginal children and young people.

Establishing a sustainable mechanism in NSW for Aboriginal self-determination across the whole of government would support long-term Aboriginal engagement with these major policy measures. For the child protection and OOHC systems it would support greater accountability to the Aboriginal community and practical measures that address over-representation. For example:

- Co-design of a plan to transfer the care of Aboriginal children to Aboriginal led and designed services in out of home care, over a period of well-resourced and strategic transition
- Ensuring that Aboriginal led and designed organisations have access to resources and funding that will enable them to strengthen their governance, secure their sustainability and plans for growth
- A mature dialogue with communities to identify Aboriginal peoples/community's ambitions, goals and measures of success for their own children – and aligning the government's efforts to reflect those priorities
- An increased focus on addressing the underlying risk factors that drive Aboriginal families contact with the child protection system such as housing, health, education and employment services

Attachment B – Aboriginal stakeholders consulted

Aboriginal Community Controlled Organisations	Aboriginal Children and Family Centres (ACFC)	State-wide Aboriginal Representative Bodies	Aboriginal Services	State-wide Non-Government Organisations	State Government Bodies
Coffs Harbour Aboriginal Community Care Centre Biripi Aboriginal Corporation Medical Centre Illawarra Aboriginal Corporation KARI Muloobinba Aboriginal Corporation Ngunya Jarjum Aboriginal Corporation Riverina Medical and Dental Aboriginal Corporation South Coast Medical Service Aboriginal Corporation Wandiyali Woomera Aboriginal Corporation	Walanbaa Dhurrali ACFC Winanga-Li ACFC	Aboriginal Legal Service	Gamarada Waminda	Legal Aid NSW CREATE Foundation	DCJ Aboriginal Reference Group Ngaramanala/F ACSIA



Attachment C – OCG initiatives to support WWCC applicants

The WWCC is a legal requirement for anyone who works or volunteers in child-related work in NSW and is a required probity check for authorised carers. The WWCC process reviews an applicant's criminal history and a review of any reportable workplace misconduct. The outcome of a WWCC is either a clearance to work with children or a refusal, with both outcomes lasting for a period of 5 years before a person has to renew their check or has the opportunity to reapply.

The WWCC is underpinned by the *Child Protection (Working with Children) Act 2012*. Records listed under Schedule 2 of the Act lead to an automatic refusal, while offences listed under Schedule 1, require review by the OCG. Applicants with Schedule 1 offences will be referred for a risk assessment and Section 15 of the act sets out what can be considered during this process, including but not limited to: the seriousness of the offence, age and vulnerability of victim(s), conduct since, likelihood of repetition, total criminal record as well as the reasonable person and public interest test being applied.

In November 2017, the OCG completed an internal audit examining the characteristics of Aboriginal and Torres Strait Islander applicants who had been refused a WWCC or had clearances cancelled following a risk assessment. Following this, a further report, the TODAY report was produced which aimed to understand how Aboriginal applicants experienced the WWCC and to provide the OCG with recommendations of how this process can be improved. The report included consultations with key OCG staff, as well as community engagements in Dubbo and five interviews with Aboriginal applicants. The report highlighted that the lack of engagement by Aboriginal applicants throughout risk assessment was a significant determining factor of their result. It made numerous recommendations to improve the experience of Aboriginal applicants through the risk assessment process.

Most recently, in December 2020, the OCG made changes to the WWCC application form to enable Aboriginal applicants to identify as Aboriginal. This adjustment to the process allows staff within the WWCC Directorate to identify Aboriginal applicants at an earlier stage and ensure that appropriate support is provided. In addition, the WWCC Directorate has implemented numerous strategies to better support and empower Aboriginal applicants to engage in the risk assessment process.

Initial contact letter procedure

The Initial Contact Letter (ICL) is a WWCC Directorate initiative to provide a less intrusive and more culturally sensitive risk assessment pathway for applicants who have been identified as Aboriginal or Torres Strait Islander. The overarching goal of the project is to finalise applications as early and as efficiently as possible, wherever possible, without compromising on risk to the safety of children.

The ICL process has been operating since 2018 and provides Aboriginal applicants with an individualised contact at the OCG to discuss their matter. Applicants who contact the ICL Risk Assessment Officer (RAO) are supported to provide submissions and identify supports within their community who can provide submissions on their behalf or engage with the RAO with consent. The ICL RAO also take verbal submissions from the applicant where appropriate which can be weighted in the assessment.

The ICL process includes additional oversight from WWCC Management regarding decision outcomes and areas where matters can be expedited. The ICL process was recently subject to an internal review which presented how the project has developed over time into a more sophisticated and comprehensive process. It also highlighted that since 2018, 125 applicants have been issued with a WWCC clearance after responding to the initial ICL letter.

Community engagement

The WWCC Directorate has undertaken several community visits to both the West and Far West of NSW including Dubbo, Brewarrina and Bourke as part of their community engagement strategy. Community engagements included consultations with Local and State Government departments, numerous non-government organisations as well as independent Aboriginal agencies.

While these engagements have been impacted due to Covid-19, there is a view to re-commencing visits when restrictions ease with a hope to reach additional Aboriginal communities within NSW.

Collaboration agreement with the Bourke Tribal Council (Maranguka)

Following community engagement in Bourke, the Bourke Tribal Council contacted the WWCC Directorate to initiate discussions regarding a collaboration agreement. The Maranguka agreement would enable Aboriginal applicants from the Bourke community to contact representatives from the Council, who will provide a reference, informed by the applicant's engagement within the community. This reference can be submitted by the applicant to support their risk assessment and will be verified and weighted appropriately by the OCG. The finalisation of the Maranguka agreement has been impacted due to Covid-19, however, remains a priority between the WWCC and the Bourke Tribal Council.

The WWCC would hope that in the future this initiative can be replicated in additional Aboriginal communities, based on their individual needs, preference, and feedback.

Aboriginal applicants and the WWCC – OCG Policy Statement

In October 2020 the OCG Aboriginal Applicants and the WWCC Policy was developed. The policy provides an overview of current strategies being implemented to improve service delivery to Aboriginal applicants and communities. The policy acknowledges that ongoing colonisation, dispossession and systemic racism have significant consequences on Aboriginal people and communities. It identifies that service delivery to Aboriginal people should be continuously reviewed and highlights

several protective factors that relate to Aboriginal applicants and communities specifically which can be weighted in the risk assessment process. The policy is used by the WWCC Directorate in their daily operations when assessing and engaging with Aboriginal applicants and ensures that appropriate weight is afforded to factors impacting upon a person's life.

While the Aboriginal Applicants and the WWCC Policy is an internal OCG document, the OCG Aboriginal Applicants and the WWCC Policy Statement is published on the OCG website.³¹ This policy statement confirms that the OCG is committed to continually reviewing and updating its processes and practices for Aboriginal applicants to limit any real or perceived structural disadvantage.

Memorandum of Understanding (MOU)

In April 2018, the OCG became party to a MOU with DCJ and the Children's Court. The purpose of the MOU is to provide a framework to ensure an open and effective working relationship and facilitate the timely exchange of information, relevant to Children's Court decisions, between the OCG and DCJ. As per the MOU, the Children's Court expects to have all WWCC decisions finalised before the matter is determined by the Children's Court. While the MOU does not dictate when the assessment must be finalised, the Children's Guardian endeavours to prioritise all Children's Court matters given the impacts on placement stability for children.

While this MOU was not set up specifically for Aboriginal carers, it was created with the intent to ensure children are placed with their preferred carers as a matter of priority and that a delayed WWCC was not a reason why this could not take place, it therefore becomes a relevant consideration in our analysis. The MOU will ensure that any provisional Aboriginal carers whose matters are before the Children's Court will be prioritised through risk assessment by the OCG. The OCG meets frequently with the DCJ Carer Enquiries team about how the MOU and exchange of information process is operating between the two agencies. These conversations strive to ensure that the MOU is fit for purpose and effectively meeting the needs of the carers and children who are identified through this process. It is stated that the MOU will be subject to a formal two-year review or a time agreed by all parties to consider the general operation of the information exchange and potential enhancements.

31 https://www.ocg.nsw.gov.au/ArticleDocuments/171/WWCC_Aboriginal_Applicants.pdf.aspx?Embed=Y

Attachment D – Table of Acronyms

AbSec	NSW Child, Family and Community Peak Aboriginal Corporation
ACCM	Aboriginal Community Controlled Mechanism
ACCO	Aboriginal Community Controlled Organisation
ACIC	Australian Criminal Intelligence Commission
ACMP	Aboriginal Case Management Policy
ACWA	Australian Community Workers Association
ADR	Alternative Dispute Resolution
AFLA	Aboriginal Family Led Assessment
AFLDM	Aboriginal Family Led Decision Making
ALS	Aboriginal Legal Service
ARG	DCJ's State Aboriginal Reference Group
ASES	OCG Aboriginal Stakeholder Engagement Strategy
ATSICPP	Aboriginal and Torres Strait Islander Child Placement Principle
BOCSAR	Bureau of Crime Statistics and Research
CHIP	DCJ's Complaints Handling Improvement Program
CTG	Closing the Gap
CSC	Community Services Centre
Davis Review	The Family is Culture, Independent Review of Aboriginal Children and Young People in OOHC Report
DCG	Deputy Children's Guardian
DCJ	NSW Department of Communities and Justice
DPC	NSW Department of Premier and Cabinet
EFCU	Enquiries, Feedback and Complaints Unit

FGC	Family Group Conferences
FSNA	Family Strengths and Needs Assessment Tool
GMAR	Grandmothers Against Removal
ITC	Intensive Therapeutic Care
Joint Protocol	Joint Protocol to reduce the contact of young people in residential care with the criminal justice system
LDM	Local Decision Making
MFF	My Forever Family
MPRA	Murdi Paaki Regional Assembly
NCARA	NSW Coalition of Regional Alliances
NGO	Non-government organisation
NFPAC	Safe and Supported (National framework for Protecting Australia's Children)
OCG	Office of the Children's Guardian
OCHRE	Community-focused plan for Aboriginal Affairs in NSW. Opportunity, Choice, Healing, Responsibility, Empowerment
OOHC	Out-of-home care
OSP	DCJ's Office of the Senior Practitioner
PNC	The Pre-Natal Conference
PSP	Permanency Support Program
PwC	Pricewaterhouse Coopers
RA tool	Risk Assessment Tool
RRA tool	Risk Re-assessment Tool
SA tool	Safety Assessment Tool
SARA	Safety and Risk Assessment
SCRPT	Screening Response and Priority Tool

SNAICC	The Secretariat of National Aboriginal and Islander Child Care
WWCC	Working with Children Check