

QUEENSLAND ABORIGINAL AND TORRES STRAIT ISLANDER CHILD PROTECTION PEAK (QATSICPP) SUBMISSION TO THE CLOSING THE GAP REFRESH



ChildProtectionPeak

Prepared April 2018

EXECUTIVE SUMMARY

This submission has been prepared by the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), as the peak representative agency for Aboriginal and Torres Strait Islander child and family services in our jurisdiction. The primary recommendations, asks and points that this submission raises include:

- We need a generational target and underpinning national strategy in place that addresses Aboriginal and Torres Strait Islander over-representation in statutory child protection systems.
- Queensland is the first state and territory jurisdiction in Australia to have a dedicated target and accompanying government strategy in place to address Aboriginal and Torres Strait Islander over-representation. A tripartite agreement between the Queensland Government, the Commonwealth Government and the Family Matters Campaign is strongly recommended, to effectively utilise the existing foundation and evidence base for action created by the generational *Our Way* strategy.
- Full, national embedment of the Aboriginal and Torres Strait Islander Child Placement Principle should be legislated and reflected in policy, practice, processes and programs nationally; and underpin any national target and strategy centred on amelioration of the disparity in current child protection outcomes.

- An expanded target is also needed for early childhood education so that Aboriginal and Torres Strait Islander children from 0 to 5 years are participating in early childhood education and care services in equal proportion to non-Indigenous children.

INTRODUCTION

The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) welcomes opportunity to provide input and feedback to the Close the Gap refresh process.

It has been 10 years since Closing the Gap began and the historic Apology to the Stolen Generations. Since this time, there are now only three of the seven national targets reported as being on track and four are due to expire in 2018; and over-representation in out-of-home care has gotten worse, with Aboriginal and Torres Strait Islander children over 10 times more likely to be removed from their families than non-Indigenous children.

The Council of Australian Governments (COAG) is currently undertaking the Closing the Gap 'refresh' process. This process is a crucial opportunity to influence the next phase of the Closing the Gap agenda, which will form the framework over the next 10 years for all Australian governments to advance outcomes for Aboriginal and Torres Strait Islander people.

This submission takes into account current national and Queensland-specific outcomes, priorities and needs. In particular, it strives to call attention to the need and imperative for the establishment of a national target, to be underpinned by a comprehensive national strategy, that tackles over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. The intertwined need for expansion to the current early childhood education target to include 0-3 years is also advocated; as is consideration of the need and requirement for inter-related targets, including that address Aboriginal and Torres Strait Islander contact with the juvenile justice system and family violence.

Our children and young people are our future; and any generational strategy needs to place children and young people at its centre if we are to achieve parity and equity across the spectrum of disadvantage experienced.

CONTEXT

- What does Closing the Gap mean to you?
- How can governments, Aboriginal and Torres Strait Islander people, and businesses work more effectively together?
- What is needed to change the relationship between government and community?
- To help close the gap, what is needed to support Indigenous community leadership and decision making?

While QATSICPP broadly supports the principles committed to as part of the Close the Gap refresh process, there is an advocated need for Aboriginal and Torres Strait Islander leadership and self-determination to be embedded in these commitments. The proposed prosperity framework as outlined in the Close the Gap refresh documentation, and the areas of focus that it encompasses, lend themselves to a rights-based framework. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) specifically provides an architecture for reform, grounded in self-determination. This necessitates inclusion of indicators/progress markers or targets to achieve structural reforms to deliver the changes aspired to. First and foremost, without deliberate structural change, the rest or any targets will be futile. What is needed is a focus on planning and purposeful redistribution of authority/decision making power as it pertains to policy formation and implementation and processes such as commissioning and evaluation, to allow a balanced accountability for success or failure, commensurate with the distribution of authority. In particular, the role, experience and expertise of Aboriginal and Torres Strait Islander community controlled organisations must be recognised; in a genuine and meaningful manner that moves beyond rhetoric, and that enables Aboriginal and Torres Strait Islander leadership in decision-making.

There is a strong and evidenced need for genuine engagement that goes beyond mere consultative approaches, and which recognises and allows Aboriginal and Torres Strait Islander led decision making. This is strongly advocated in the case of Aboriginal and Torres Strait Islander child protection and family wellbeing, with progress now being made in Queensland to embed family and Aboriginal and Torres Strait Islander organisation led decision making from both legislative, policy and practice perspectives. The latter is particularly being achieved through progress to legislatively recognise and enable Aboriginal and Torres Strait Islander community controlled organisation's leadership in key decision-making that impacts on Aboriginal and Torres Strait Islander families and children.

Queensland is the first jurisdiction in Australia to have a Government established target and strategy in place to address Aboriginal and Torres Strait Islander over-representation in statutory child protection systems. The generational *Our Way* strategy has been developed in partnership between the Queensland Government and Family Matters; Australia's national campaign to reduce Aboriginal and Torres Strait Islander over-representation. This serves as an exemplar of a collaborative, partnership approach that is being undertaken in Queensland, through joint collaborative effort and across the levels of legislation, policy, practice, processes and programs; to genuinely commit to tangible strategies, targets and measures to eliminate Aboriginal and Torres Strait Islander over-representation in out-of-home care.

Coupling the need for the recognised and facilitated role of Aboriginal and Torres Strait Islander leadership and decision making is also the requirement for adequate, need-responsive and evidence-informed resourcing and investment.

ISSUES AND MEASUREMENT

- How could Closing the Gap targets better measure what is working and what is not?
- What has worked well under Closing the Gap?
- What has not worked well?

The latest Close the Gap report shows that only three of the seven targets are on track; and four are set to expire in 2018. This calls attention to the need and imperative for timely review and assessment of current targets and future directions to ensure more effective and impactful approaches of working together moving forward.

With respect to measurement of outcomes and how this may be improved, there is a strong need to move toward nationally consistent and comprehensive ways of monitoring and tracking outcomes; which span the continuum of early intervention and prevention, through to outcome related measures; and which are interdisciplinary in their scope and focus.

With regard to child protection, this need is particularly pertinent. A major focus of the Family Matters campaign has been to progress uniformity and comprehensiveness of data sets pertaining to Aboriginal and Torres Strait Islander children and families. This entails not only looking to expand current data sets around contact with statutory child protection systems, but also to look at access to and contact with early intervention and prevention services; as well as levels of investment to Aboriginal and Torres Strait Islander community controlled organisations, including to prevention, as a proportion of the child protection budget. This has also been coupled by a focus on bolstering current data pertaining to successful preservation (safely cared for without state intervention/removal) and successful restoration (safe, sustainable reunification and reconnection). These three broad areas have been committed to by the Queensland Government as part of the 2018 Family Matters report.

Furthermore, in Queensland we are currently working toward establishment of a comprehensive, multi-Departmental monitoring and evaluation framework to accompany the *Our Way* generational strategy and the first of the three-year action plans', *Changing Tracks*. We believe there is a strong example in Queensland of tangible progress being made to address and reduce Aboriginal and Torres Strait Islander over-representation in child protection systems; with the generational strategy, accompanying outcomes framework and the embedded partnership with Family Matters, serving as a practical, real foundation that could be drawn upon by the Commonwealth Government.

It is noteworthy that embedded in the outcomes framework being developed by SNAICC to accompany the *Our Way* strategy, there is a vital focus on the leadership and role of Aboriginal and Torres Strait Islander Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) submission to the Close the Gap Refresh, prepared April 2018

community controlled organisations; which we believe needs to be replicated at national levels if tangible activity and outcome targets are to be met. Measurement approaches must be based on joint decision-making and recognise and acknowledge the expertise and vital role that Aboriginal and Torres Strait Islander community controlled organisations provide in meeting the needs of families and children.

INDICATORS

- What indicators should governments focus on to best support the needs and aspirations of Aboriginal and Torres Strait Islander peoples?
- Should governments focus on indicators such as prosperity, wellbeing or other areas?
- What do you think are the most important issues for Aboriginal and Torres Strait Islander Australians, families and communities? Why?

Extending on above, we need comprehensive, nationally consistent indicator sets across the continuum of family preservation to family restoration; as well as investment to Aboriginal and Torres Strait Islander community controlled organisations. As noted, this is particularly the case for Aboriginal and Torres Strait Islander child protection and family wellbeing, where there is a high need to improve jurisdictional consistency and comprehensiveness of indicators and measures used and collected. A focus on cultural security and accountability of government and mainstream providers should also be a concurrent target. The latter connects to the corresponding need for data sovereignty, to counter the current process whereby targets are constructed based on what Government can control, measure and report, thereby controlling the narrative about the status of wellbeing for First Nations people. There's an orientation issue, in that the current state is very much oriented on the priorities and aspirations of Government. The future state, through the next iteration of the Close the Gap targets, must be oriented in the realities, experiences and aspirations of First Nations people, families and communities.

Strongly identified areas for expansion to current data sets and indicators in relation to Aboriginal and Torres Strait Islander children and families include:

1. investment to Aboriginal and Torres Strait Islander community-controlled child protection and family support service development and delivery, as well as to early intervention and prevention services, tertiary system responses and government administration and mainstream service delivery, as proportions of the child protection budget
2. access to, and use of, preventative family support services by Aboriginal and Torres Strait Islander families; and
3. successful preservation (safely cared for without state intervention/removal) and successful restoration (safe, sustainable reunification and reconnection)

These are major data priorities of the Family Matters campaign, which produces a national report each year, with each state and territory jurisdiction providing input and contribution.

Outcomes of the latest 2017 report launched at Parliament House in November show the strong and urgent need for action in relation to Aboriginal and Torres Strait Islander over-representation in statutory child protection systems, with Aboriginal and Torres Strait Islander children over 10 times more likely than non-Indigenous children to be removed from their families. If no new action is taken, the number of Aboriginal and Torres Strait Islander children removed by child protection authorities will triple by 2035. This reinforces the need, use and place for a national target and accompanying comprehensive strategy to address and halt these current negative trajectories.

QATSICPP also advocates that any measurement approaches and indicator frameworks developed in association with a target for Aboriginal and Torres Strait Islander children's over-representation in out-of-home care should include a target for full implementation and adherence to all 5 constituent elements of the *Aboriginal and Torres Strait Islander Child Placement Principle* (ATSICPP). The ATSICPP is already COAG endorsed and adopted in policy across all jurisdictions. Kinship however needs progressing to have an agreed definition and definitive counting rules.

The ATSICPP recognises the importance of connections to family, community, culture and country in child and family welfare legislation, policy and practice, and asserts that self-determining communities are central to supporting and maintaining those connections. It was founded on an intent of systemic change to counter embedded racism that caused the Stolen Generations by explicitly recognising the value of culture and the vital role of Aboriginal and Torres Strait Islander children, families and communities to participate in decisions about the safety and wellbeing of children. The ATSICPP aims to:

1. Ensure an understanding that culture underpins and is integral to safety and wellbeing for Aboriginal and Torres Strait Islander children and is embedded in policy and practice;
2. Recognise and protect the rights of Aboriginal and Torres Strait Islander children, family members and communities in child welfare matters;
3. Increase the level of self-determination of Aboriginal and Torres Strait Islander people in child welfare matters; and
4. Reduce the over-representation of Aboriginal and Torres Strait Islander children in child protection and out-of-home care systems.

It is also again noteworthy that in Queensland, progress is also being made to develop a comprehensive monitoring and evaluation framework to accompany the *Our Way* generational strategy and *Changing Tracks* action plan. SNAICC are leading this piece of work and the framework is being developed in consort with Aboriginal and Torres Strait Islander community controlled organisations as well as across Queensland Government Departments. The aim is to achieve a comprehensive, multi-disciplinary and culturally appropriate outcomes framework that provides real and tangible opportunity to effectively and accurately monitor progress and outcomes toward closing the gap in over-representation of Aboriginal and Torres Strait Islander children in out-of-home care. There is in turn a foundation of work to be drawn upon in Queensland, in addition to the partnership arrangement that exists between Family Matters, the Queensland Government; and a proposed tripartite agreement to include the Commonwealth.

An additional recommendation, that also aligns with and supports key asks of the Family Matters campaign, is the appointment of Aboriginal and Torres Strait Islander Child Commissioners in each jurisdiction, to be responsible for oversight of Aboriginal and Torres Strait Islander children in statutory child protection systems

in Australia. This would also add another layer to effective transparency, as well as ensure cultural security and appropriateness in oversight and monitoring.

The role and importance of Aboriginal and Torres Strait Islander community controlled organisations in relation to authority and decision-making is also paramount, as raised throughout this submission and its recommendations.

CULTURE

- Should Aboriginal and Torres Strait Islander culture be incorporated in the Closing the Gap framework? How?

With regard to Aboriginal and Torres Strait Islander children and families and the asserted need for a dedicated target to tackle Indigenous over-representation in child protection systems, connection to culture, community, family and kin, must be recognised as a key determinant for our children. There is a strong foundation of evidence that highlights the importance of drawing on the strengths of Aboriginal and Torres Strait Islander communities and cultures to keep children safe and well.

In addition to the importance of retention of and connection to culture for the wellbeing and safety of children and families, there is also the vital role that cultural security and appropriateness of services plays in supporting the needs and outcomes of Aboriginal and Torres Strait Islander people. In particular, QATSICPP advocates the national uptake and commitment to the Aboriginal and Torres Strait Islander Child Placement Principle and its five elements to ensure the cultural safety, appropriateness and responsiveness of child and family services for Aboriginal and Torres Strait Islander children in matters relating to wellbeing and child protection.

The Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP) protects key human rights of children and Aboriginal and Torres Strait Islander peoples, particularly as recognised in the United Nations Convention on the Rights of the Child (UNCRC) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Notably, it ensures the rights of children to be protected from harm including through preventative social programs (UNCRC, article 19), to the enjoyment of their cultures in community with their cultural groups (UNCRC, article 30; UNDRIP articles 11-13) and the rights of Aboriginal and Torres Strait Islander children, families and communities to participate in decisions that impact upon them (UNCRC, article 12; UNDRIP, articles 3-5, 18-19).

Recognition and adequate resourcing of Aboriginal and Torres Strait Islander community controlled organisations is also fundamental to ensure the cultural security and appropriateness of available service and support options; and to actively enable Aboriginal and Torres Strait Islander leadership and self-determination in decision-making that impacts on communities, families and children.

TARGETS

- What do you think are the key targets or commitments that should be measures in a refreshed Closing the Gap agenda?
- What resources, including data or information are needed to help communities and develop and drive local action?

As part of the COAG Close the Gap refresh process, QATSICPP strongly advocate the need and imperative for incorporation of the following targets:

- 1. A dedicated target to address Aboriginal and Torres Strait Islander over-representation in out-of-home care that is underpinned by a comprehensive, national strategy**
- 2. An expanded target for early childhood education so that Aboriginal and Torres Strait Islander children from 0 to 5 years are participating in early childhood education and care services in equal proportion to non-Indigenous children.**
- 3. Associated targets for youth justice, incarceration, family violence and housing**

The need, use and place for incorporation of dedicated targets against these three areas is advocated strongly based on current, salient data; which corroborates the need and importance of targeted, committed action to address visibly high areas of over-representation for Aboriginal and Torres Strait Islander people.

There is strong evidence to support the need and requirement for incorporation of a dedicated target to address Aboriginal and Torres Strait Islander over-representation in out-of-home care. Government and community agree there is a problem. The Stolen Generations policies and practices, in combination with persistent social inequity, have created an ongoing legacy of disproportionate child protection interventions with Aboriginal and Torres Strait Islander children, families and communities across Australia, and significant under-investment in Aboriginal and Torres Strait Islander community-led and controlled solutions.

Aboriginal and Torres Strait Islander children are over-represented at virtually every decision-making point in the child protection system that is currently reported at the national level. Aboriginal and Torres Strait Islander children are far more likely than non-Indigenous children to be notified, investigated, substantiated, placed on a protection order and to reside in out-of-home care. Furthermore, the disparities between Aboriginal and Torres Strait Islander children and non-Indigenous children have continued to increase dramatically for each and every one of these measures in recent years.

Aboriginal and Torres Strait Islander children are now more than 10 times more likely to be residing in out-of-home care than non-Indigenous children. This national figure of over-representation is an all-time high. There is strong reason to believe that the number and proportion of Aboriginal and Torres Strait Islander children in

out-of-home care will continue to rise. The Family Matters campaign used available estimates over the last seven years of child protection data from the Australian Institute of Health and Welfare combined with data from the Productivity Commission Report on Government Services to project future out-of-home care population growth. This came to the prediction that the population of Aboriginal and Torres Strait Islander children in care will more than triple in size by 2036, while the non-Indigenous population of children in out-of-home care will almost double. This data comes from the latest 2017 Family Matters campaign report, which also outlines key recommendations and needs to address Aboriginal and Torres Strait Islander over-representation. The report's key recommendations align to key points and recommendations highlighted throughout this submission, and include:

- 1) Development of a national comprehensive Aboriginal and Torres Strait Islander Children's Strategy which includes generational targets to eliminate over-representation and address the causes of Aboriginal and Torres Strait Islander child removal to improve child safety and wellbeing;
- 2) A target and strategy to increase proportional investment in evidence-informed and culturally supportive prevention and early intervention services that are accessible to Aboriginal and Torres Strait Islander families.
- 3) A target and strategy that recognise the unique role of, and provide sustainable funding for, a dedicated Aboriginal and Torres Strait Islander community-controlled early years sector.
- 4) National standards to ensure legislation and changing practices in the family support and child protection system so that it adheres to all five elements of the Aboriginal and Torres Strait Islander Child Placement Principle (ATSICPP), including:
 - a. Nationally consistent standards for implementation of all five elements of the ATSICPP and linked jurisdictional reporting requirements through the National Forum for Protecting Australia's Children
 - b. Increased representation of Aboriginal and Torres Strait Islander families, children and communities at each stage of the decision-making process, including through independent Aboriginal and Torres Strait Islander family-led decision making
 - c. Increased investment in reunification services to ensure children are not spending longer in out-of-home care than is necessary due to inadequate planning and support for parents; and increased investment in support services for families once children are returned
 - d. Increased efforts to connect Aboriginal and Torres Strait Islander children in out-of-home care to family and culture, through cultural support planning, family finding, return to country, and kinship care support programs.
- 5) Prioritise investment in service delivery by community controlled organisations in line with self-determination, including through investment targets aligned to need and "Aboriginal and Torres Strait Islander first" procurement policies for services to Aboriginal and Torres Strait Islander families.
- 6) Commit to sustained increase in investment for family violence response and prevention, with a key focus on resourcing needs for Aboriginal and Torres Strait Islander community controlled organisations.
- 7) Development and publication of data to better measure the situation and causes of, and responses to, over-representation of Aboriginal and Torres Strait Islander children in out-of-home care.
- 8) Establishment of state-based Commissioners, peak bodies and other representative bodies for Aboriginal and Torres Strait Islander children.

The above recommendations show a strong focus on bolstering prevention and early intervention approaches that address the causes of over-representation, not just the incident of it. There is strong evidence that early care and environmental factors have crucial impacts on later health and wellbeing, and that interventions will be more effective the earlier in the lives of children that they are applied. Whole-of-population preventative

measures to improve family and community wellbeing have a downstream effect in reducing child maltreatment. If not addressed, family problems may worsen, and ultimately increase the risk of harm to children over time. Investment in prevention and early intervention to strengthen families can provide long-term social and economic benefits by interrupting trajectories that lead to adverse adult outcomes.

This connects with the advocated need to incorporate an expanded target for early childhood education, so that Aboriginal and Torres Strait Islander children aged 0 to 5 years are participating in early childhood education. There is unquestionable evidence that the formative years of a child's life are a critical predictor of their successful transition to school and life-long education, health, wellbeing and employment outcomes. In 2016, Aboriginal and Torres Strait Islander children had approximately a 50 per cent lower likelihood of attending a child-care benefit approved service than non-Indigenous children. In 2014, a Productivity Commission Report identified a 15,000 place gap overall in early Childhood Education and Care (ECEC) service enrolment of Aboriginal and Torres Strait Islander compared to non-Indigenous children. This under-representation in early childhood education and care services correlates strongly with developmental vulnerability, with the 2015 Australian Early Development Census identifying that Aboriginal and Torres Strait Islander children are consistently over 2.6 times more likely to be vulnerable on 2 or more domains in comparison to non-Indigenous children.

In addition to a dedicated target for addressing over-representation in child protection systems, and expansion to the early childhood education indicator, QATSICPP strongly advocates for inclusion of associated targets to also address implicated issues, including youth justice, incarceration, family violence and housing; which ultimately have compounding impacts on families and children. Aboriginal and Torres Strait Islander people are over-represented in our youth and adult justice systems, and with respect to need experienced in relation to family violence and access to secure and affordable housing.

Taking housing as an example, which has a substantial impact on the capacity of families to provide safe and supportive care for children; Aboriginal and Torres Strait Islander people experience significantly higher rates of homelessness, overcrowded housing, and unstable housing tenure than non-Indigenous Australians. In 2011, Aboriginal and Torres Strait Islander people were 14 times more likely to be homeless than non-Indigenous people (AIHW, 2014a). In 2015-16 in Australia, clients accessing homelessness services were 9.1 times more likely to be Aboriginal and Torres Strait Islander. Of those, more than 34 per cent were sole parents, 13 per cent couples with children, and 1 in 4 was a child under the age of 10 (AIHW, 2017b).

With regard to family violence, Aboriginal and Torres Strait Islander people are significantly more likely to experience family violence than non-Indigenous people. The greatest direct impact of family violence is on Aboriginal and Torres Strait Islander women (Memmott, Stacy, Chambers & Keys, 2001; National Family Violence Prevention Legal Services Forum, 2014), which leads Aboriginal and Torres Strait Islander children to be especially vulnerable to the direct and indirect impacts of family violence.

There is a strong need for preventative and early intervention approaches that are community-led and informed, across health, wellbeing, social and economic spectrums. Provision of early intervention supports to families is one of the major strategies used to improve outcomes for vulnerable children and families and is

one of the core strategies described in the *National Framework for Protecting Australia's Children 2009-2020*. However, in 2015-2016, only 17 per cent of overall child protection funding was invested in support services for children and their families, amounting to less than \$800 million as compared to \$4billion, or 83 per cent of funds spent on child protection intervention and OOHC services.

Furthermore, the need for trauma-informed healing to underpin and inform services and responses is also advocated and identified as implicit to success across the breadth of Close the Gap targets.