

*Aboriginal Case Management Rules and Practice Guidance:
Strengthening Aboriginal families, delivering outcomes for Aboriginal children and young people*

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Aboriginal Case Management Rules and Practice Guidance: Strengthening Aboriginal families, delivering outcomes for Aboriginal children and young people

Introduction

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

- 1) Aboriginal Community Response
- 2) Aboriginal Family Strengthening
- 3) Aboriginal Child Safety.



Identification of Aboriginal Children and Families

The Aboriginal Case Management Policy, and Rules and Practice Guidance applies to all Aboriginal children and young people and their families. As such, appropriate application of the Aboriginal Case Management Policy and Rules and Practice Guidance requires robust processes to identify Aboriginal children and families as early as possible in their engagement in the continuum of support, allowing the relevant safeguards to be applied.

It is inappropriate to identify a family as not Aboriginal as a default position. Rather, caseworkers actively seek to identify the cultural background of all families. It is not unusual for Aboriginal families to be reluctant to self-identify to statutory child protection systems, given justified mistrust of these systems and their treatment of Aboriginal peoples ([see FACS Apology to the Aboriginal people of NSW](#)). Caseworkers are encouraged to take a curious stance to proactively identify every family's cultural background, engaging them in a robust, iterative process to unpack each family's unique history and heritage.

Aboriginal Participation in Decision-Making

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

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

- determining whether a child or young person is at risk of significant harm
- assessing whether or not a child is Aboriginal
- assessing suitable family placement options for a child in line with the Aboriginal Placement Principles
- for another reason in connection with the administration or execution of the Children and Young Persons (Care and Protection) Act 1998 (section 254).

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

These Rules and Practice Guidance operationalise the participation of Aboriginal children, families, kin and communities (through appropriate representative mechanisms) consistent with the *Children and Young Persons (Care and Protection) Act 1998*. FACS and Service Providers will:

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

1 - Aboriginal Community Response

Aboriginal Community Response refers to a universal support system that seeks to strengthen networks of care and optimise community supports so that children can thrive. This includes providing support to reduce sources of stress, support responsive relationships and strengthen core life skills¹, delivered through a culturally embedded service system that is designed and delivered by Aboriginal people. They are the primary supports offered within an inclusive, child safe community.

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

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

Aboriginal Community Response provides a ‘no wrong door’ intake approach that encompasses a broad range of supports including, but not limited to:

- community education and awareness activities directed to Aboriginal families and communities
- family supports and youth related services, or other similar community based programs
- programs supporting expectant or new parents and their babies
- transition to early learning supports and services
- universal health care and immunisation
- child and family services provided to Aboriginal children and families who are experiencing challenges and/or may be at risk
- community engagement and development (including capacity development) in the specific area of child safety and child/adolescent development and growth.

Key roles and responsibilities

The service that is the first point of contact for families or the child and young person takes on a lead role in service coordination as a key worker². The key worker:

- engages with the family or young person and community
- supports the family or young person to identify their own needs, priorities and goals
- supports the family or young person to develop their own support plan
- coordinates universal services for culturally responsive and community based supports in a timely and accessible manner

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

² In this document, the term ‘key worker’ refers to a ‘caseworker’ within the voluntary Aboriginal Community Response tier.

- provides a response role where outreach services are provided to families and communities to access referral supports as soon as possible
- establishes links with other service providers to promote service inclusion and integration
- records relevant data about intake, actions and outcomes achieved, enabling oversight by FACS and Aboriginal Community Controlled Mechanisms
- seeks consent to share information to enable effective service coordination and integration.

Intake

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

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

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

Aboriginal Family-led Decision Making

Aboriginal Support Plans are established through Aboriginal Family-led Decision Making processes where agreed to by families, empowering families to set their own goals, priorities and action plans. Aboriginal Family-led Decision Making occurs at the point of developing the support plan, and at review points, identifying achievements, changes to goals or priorities, or additional supports required.

Aboriginal Support Plans

The key worker works with the young person or family to establish a support plan to:

- articulate goals and the actions to achieve them
- identify and access formal and informal supports as necessary, strengthening informal ongoing supports as enduring strengths
- actively support the family support plan to be put into action, including support to overcome barriers to access
- provide ongoing resources and services until family goals have been achieved
- actively monitor and review achievements and goals in partnership with the family.

Pro-active Efforts

Services are responsible to provide active assistance to families and communities, supporting them to overcome barriers in accessing community supports and services by a

pro-active and flexible approach to improving service visibility and accessibility. For example:

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

2 - Aboriginal Family Strengthening

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

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

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

- Brighter Futures and Youth Hope
- Multi-Systemic Therapy - Child Abuse and Neglect (MST-CAN©)
- Functional Family Therapy - Child Welfare (FFT-CW©)
- Aboriginal Intensive Family Based Services
- Intensive Family Services and Intensive Family Programs

Key roles and responsibilities

A caseworker is assigned by the service provider to:

- engage collaboratively with Aboriginal families, taking a whole-of-family approach that understands family/kin and community relationships
- provide comprehensive information and referral advice to families experiencing crisis, matching families to the right culturally responsive supports and services in a timely manner
- assess family strengths, risks, and challenges in a holistic way
- provide case coordination, actively supporting families to access required services

- record relevant data about intake, assessment and actions and outcomes achieved, enabling oversight by FACS and Aboriginal Community Controlled Mechanisms.

Triage

FACS refers families for Aboriginal Family Strengthening services after a safety assessment is completed by FACS (see [Safety and Risk Assessment](#)). This occurs when a child is assessed as being at risk of significant harm (ROSH) and active supports are needed to strengthen families and address risks, with the safety decision recorded as either ‘safe’ or ‘safe with plan’. The case plan goal will be family preservation, with proactive efforts undertaken to strengthen families and address identified risks.

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

- a service provider seeking brokerage and step down supports
- a service provider within the tier of Aboriginal Community Response seeking higher intensity family supports to complement other service delivery or
- a family who has initiated a self-referral requiring higher intensity family supports.

Safety and Risk Assessment

FACS is responsible for conducting a safety and risk assessment (SARA) to assess a child or young person’s immediate safety and the risk they may experience abuse or neglect in their household in the future. Proactive efforts are made to engage with Aboriginal families and communities and support their participation in these processes in order to make valid assessments of risk and safety with respect to the best interests of their children. Such efforts are to include Aboriginal Family-led Decision Making processes and are clearly evidenced by FACS and other relevant service providers.

Aboriginal Family-led Decision Making processes continue to provide proactive supports, identifying and addressing safety concerns with the family. FACS caseworkers:

- engage with Aboriginal communities through established local mechanisms before carrying out the SARA. This includes:
 - the nature of the risk/concerns
 - discussion of possible actions and alternatives
 - identification of family networks for initial assessment of family placements (which may include Family Finding[®] as a practice approach)
- make proactive efforts to ensure that consultation has occurred through Aboriginal Community Controlled Mechanisms
- document reasons for not consulting with an Aboriginal Community Controlled Mechanism when consultation is unable to occur due to immediate safety issues; and ensures Aboriginal Community Controlled Mechanisms are able to participate as early as possible
- visit the child, their parents and family/kin to carry out the SARA; where possible with an Aboriginal caseworker or Aboriginal advocate
- verify that the child’s cultural status has been accurately recorded

- make diligent efforts in contacting family/kin and community members to inform decision making of the safety assessment as well as continue with family finding processes.

SARA is a set of Structured Decision Making tools that are used alongside the professional judgement of FACS caseworkers.

Key steps

- FACS visits a child, their parents and family/kin to carry out a SARA.
- A safety assessment is recorded in ChildStory within two days of the visit. Children are assessed as either being 'safe', 'safe with plan', or 'unsafe' (Note: if unsafe, see 3 – Aboriginal Child Safety).
- A risk assessment is completed within 30 days after the safety assessment. A risk assessment helps FACS to assess the risk that a child may experience abuse or neglect in future in the home where they live, with risk outcomes of 'low', 'medium', 'high' or 'very high'. When a child is assessed as at 'high' or 'very high' risk, they are considered to be in need of care and protection.
- A risk re-assessment occurs every 90 days (or sooner if there is new information that would affect assessment of risk) when the risk is assessed as high or very high. Risk re-assessment helps FACS to re-assess the risk to a child following the parents and family/kin's participation in case planning and work towards the child's case plan goal.
FACS ceases risk re-assessment when the re-assessed risk is low or medium and where there are no unresolved dangers.
- FACS may carry out a review of the initial safety assessment, if new (ROSH or non-ROSH) information is received that would change the initial safety decision.
FACS completes a closing safety assessment if a safety plan is put in place, or when closing FACS involvement with the child and their family.

When completing a SARA and making determinations about the safety and risk of Aboriginal children and young people, families and communities (through appropriate Aboriginal Community Controlled Mechanisms) are proactively supported to participate in decision making.

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

Aboriginal Family-led assessments

Caseworkers work from the perspectives of families to identify a range of practical, educational, therapeutic and advocacy supports, assessing each family's strengths and needs to formulate case plan goals and strategies. Prompt assessment is critical to engaging and working with Aboriginal families in ways that they view as relevant and helpful. Caseworkers use assessment models sensitively to ensure assessments are valid, and prioritise culturally valid models.

An assessment of family needs and strengths includes:

- domains of parent and child functioning, from a culturally informed perspective
- recognition of the impacts of past trauma, including family and intergenerational trauma

- concept of family and connections to family, community, culture and Country
- recognition of family structures and environments including Aboriginal child rearing practices
- family member's views about what they value, their worries, their strengths, their needs and future aspirations.

Outcomes of assessments are validated within Aboriginal Family-led Decision Making processes, engaging transparently with families about all elements of the assessment and supporting families to participate in this process with independent supports as needed.

Aboriginal Family-led Decision Making

Aboriginal Case Planning occurs through Aboriginal Family-led Decision Making processes.

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

Aboriginal Case Planning - Family Strengthening

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

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

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

In partnering with the family, caseworkers:

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

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

Proactive Efforts

FACS and service providers respond promptly when risks are identified, taking the opportunity to provide tailored supports to address risks and strengthen families,

preventing further escalation. Families are provided with access to family supports, aligned to the identified need, at the first point of contact and may be offered these supports more than once.

FACS and service providers take all possible steps to preserve families and prevent child removal through pro-actively engaging families and providing tailored, culturally embedded services and supports to strengthen families and address risks.

FACS and service providers engage local communities to build on their protective and preventive practices, and utilise Aboriginal Family-led Decision Making processes to enable formal and informal support to strengthen families.

Permanency Support Services

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

- the outcome of the SARA, and any risk re-assessment
- the case plan goal and action plan as identified by the family through Aboriginal Family-led Decision Making processes.

Where the Safety Decision is ‘Safe’ or ‘Safe with Plan’, proactive efforts support and strengthen families towards the case plan goal of family preservation. Service providers coordinate the provision of Aboriginal Family Strengthening supports to address identified risks and enable children to remain safely at home. This includes building capacity and strengthening formal and informal supports. FACS and the service provider closely monitor progress toward achieving the child’s case plan goal in partnership with families through Aboriginal Family-led Decision Making processes. Aboriginal Community Controlled Mechanisms provide community oversight of case plan actions and achievement.

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

Transfer of case management responsibility occurs through existing referral pathways during the FACS transitional period. Refer to ‘other case management functions’ – case management transfer.

Information Exchange

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

- the child or young person is known to FACS or the service provider
- the person to whom the information relates to gives consent to the information.

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

To maximise Aboriginal Family Strengthening, informed consent is sought from families to enable more effective case coordination, participation, and family-led, strengths-based

practices. In practice, this allows for the effective engagement of support programs to enable holistic responses that address family need.

3 - Aboriginal Child Safety

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

Aboriginal Child Safety encompasses tertiary level supports and interventions focused on child safety, wellbeing and welfare. Importantly, Aboriginal Child Safety is focused on stability for an Aboriginal child through trauma-informed practice and embedded within a culturally rich environment.

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

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

Key roles and responsibilities

FACS and service providers work to:

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

Triage

FACS is responsible for triaging all risk of significant harm (ROSH) reports through the Child Protection Helpline and Community Services Centres, relating to Aboriginal children and their families and assessing which response is most appropriate.

FACS Caseworkers ensure the following is included in Triage practice:

- Aboriginal children and their families are identified as early as possible so that they can receive culturally appropriate supports and services in a timely manner.

- An Aboriginal child's identity is accurately and consistently recorded to ensure that their cultural rights are protected and promoted. This is an active and ongoing process for all children, and includes the child (where age and development permits), the parents, family/kin or community members.
- Family finding processes are initiated to identify significant relationships and broader family networks that may be able to support the child and their family.

FACS Caseworkers achieve the above by:

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

Safety and Risk Assessment

FACS is responsible for conducting a SARA to assess a child or young person's immediate safety and the risk that a child or young person may experience abuse or neglect in their household in the future. Every effort is made to engage with Aboriginal families and communities and support their participation in these processes in order to make valid assessments of risk and safety with respect to the best interests of their children.

Aboriginal Family-led Decision Making processes continue as part of the child protection response for identifying and addressing safety concerns with the family and decision making if the child is removed from their family.

FACS caseworkers:

- engage with Aboriginal communities through established local mechanisms before carrying out the SARA. The consultation includes:
 - the nature of the risk/concerns
 - discussion of possible actions and alternatives
 - family finding processes (identification of family networks to contribute to safety and care, including initial assessment of family placements)
- make proactive efforts to ensure that consultation occurs through Aboriginal Community Controlled Mechanisms
- document reasons for not consulting with an Aboriginal Community Controlled Mechanism when consultation is unable to occur due to immediate safety issues; and ensures Aboriginal Community Controlled Mechanisms are able to participate as early as possible
- visit the child, their parents and family/kin to carry out the SARA; where possible with an Aboriginal Caseworker or Aboriginal Advocate
- verify that the child's cultural status has been accurately recorded

- make diligent efforts in contacting family/kin and community members to inform decision making of the safety assessment as well as continue with family finding processes.

SARA is a set of Structured Decision Making[®] (SDM) tools that are used alongside the professional judgement of FACS caseworkers.

Key steps

- FACS visits a child, their parents and family/kin to carry out a SARA.
- A safety assessment is recorded in ChildStory within two days of the visit. Children are assessed as either being 'safe', 'safe with plan', or 'unsafe' (Note: if 'safe' or 'safe with plan', see Section 2 – Aboriginal Family Strengthening).
- A risk assessment is completed within 30 days after the safety assessment. A risk assessment helps FACS to assess risk that a child may experience abuse or neglect in future in the home where they live, with risk outcomes of 'low', 'medium', 'high' or 'very high'. When a child is assessed as at 'high' or 'very high' risk, they are considered to be in need of care and protection.
- A risk re-assessment occurs every 90 days (or sooner if there is new information that would affect assessment of risk) when the risk is assessed as high or very high. Risk re-assessment helps FACS to re-assess the risk to a child following the parents and family/kin's participation in case planning and work towards the child's case plan goal. FACS ceases risk re-assessment when the re-assessed risk has an outcome of 'low' or 'medium' and where there are no unresolved dangers.
- FACS may carry out a review of the initial safety assessment, if new (ROSH or non-ROSH) information is received that would change the initial safety decision.

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

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

Note: a SARA safety assessment results in a safety decision of 'safe', 'safe with a plan' or 'unsafe'. If 'safe' or 'safe with plan', see Aboriginal Family Strengthening.

When completing a SARA and making determinations about the safety of Aboriginal children and young people, FACS ensures that Aboriginal families and communities (through appropriate Aboriginal Community Controlled Mechanisms) are proactively supported to participate in decision making.

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

Proactive efforts are made to identify and place Aboriginal children within their family, community and culture, consistent with the Aboriginal Child Placement Principles, in partnership with Aboriginal families and communities, drawing on Aboriginal Family-Led Decision Making processes, Aboriginal Advocates and Aboriginal Community Controlled Mechanisms. Placement of Aboriginal children and young people is outlined below.

FACS completes a closing safety assessment if a safety plan is put in place, or when closing FACS involvement with the child and their family.

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

FACS has statutory responsibility for responding to child protection reports (section 30). FACS carries out SARA and where appropriate:

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

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

A funded service provider may participate in and assist FACS to carry out SARA, for example:

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

Participating in SARA is not mandatory and occurs:

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

FACS is required to engage Aboriginal children and young people, their families, and communities (including Aboriginal Community Controlled Organisations) in SARA and other decisions (section 12). The processes by which Aboriginal people participate in such decisions is clearly documented and forms part of case planning. Evidence of participation is provided to Aboriginal Community Controlled Mechanisms when seeking endorsement for case goals and care planning.

Aboriginal Family-led Assessment

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

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

Aboriginal Family-led Decision Making

Aboriginal Case Planning is established through Aboriginal Family-led Decision Making processes. Caseworkers respect that families are experts in their own lives and partner with the whole family to enable meaningful participation in assessment, case planning and review, including identification of goals and priorities, existing and required supports and action plans to achieve goals and address risks. Families are supported by independent Aboriginal Community Facilitators to fully participate in Aboriginal Family-led Decision Making processes.

Aboriginal Case Planning – Safety, Stability and Cultural Continuity

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

Families are supported in case planning by Aboriginal Community Facilitators through Aboriginal Family-led Decision Making processes ensuring that goals are:

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

Caseworkers:

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

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

Case plans are reviewed 6 monthly (restoration and other permanent care orders) and 12 monthly (long-term care) with the child's family/kin, caregivers, and significant others, named in the plan through Aboriginal Family-led Decision Making processes. Aboriginal children are encouraged and assisted to participate in case plan decisions that affect them (as developmentally appropriate), with their views given due weight.

Placement Decision Making

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

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

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

Aboriginal children are placed with their sibling/s in accordance with the Aboriginal Child Placement Principles. Caseworkers engage active efforts to keep siblings together and maintain and strengthen sibling relationships.

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

- Case management allocated to an accredited non-Aboriginal service provider on the approved register of non-Aboriginal partner organisations maintained by AbSec. Such organisations have a stated ongoing commitment to case management by Aboriginal

Community Controlled Organisations and demonstrated evidence of supporting actions to achieve this goal.

- Any allocation of case management of an Aboriginal child to a non-Aboriginal service provider is notified to the relevant local Aboriginal Community Controlled Mechanism and AbSec through quarterly dashboard reporting and local partnership arrangements.
- Development of a timely strategy to transition case management to an accredited Aboriginal Community Controlled Organisation is established as part of case planning, in partnership with and with oversight from the local Aboriginal Community Controlled Mechanisms and AbSec.

Preserving an Aboriginal child's relationships and connections

Permanency support services for a child in statutory care are provided to preserve and enhance a child's relationship and connectedness with their parents, siblings and family/kin. Service providers support a child to maintain these connections, and to renew or build new connections through regular family contact wherever possible and appropriate.

In maintaining a child's sense of identity and connection with their family, community and culture, service providers and carers:

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

Cultural Planning

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

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

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

The Cultural Support Plan builds on the Cultural Care Plan, providing evidence and actions for how a child's cultural connections and relationships will be maintained and

strengthened in an active, ongoing way. It includes specific, age appropriate strategies for developing and maintaining a positive sense of identity and belonging.

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

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

Cultural plans are:

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

Caseworkers:

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

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

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

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

Case planning for Siblings

Case planning for a child's sibling relationships is considered throughout all case planning processes, as part of participatory Aboriginal Family Led Decision Making processes and case planning in partnership with Aboriginal families and communities. Through proactive engagement with the child's family and community, sibling relationships can be identified and supported in a timely way. Participatory, Aboriginal family led approaches also support the co-placement or planning of ongoing contact between siblings, the alignment of case plan goals (where appropriate), and promote continuity in casework across siblings.

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

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

Co-placement and co-location of siblings

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

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

Sibling co-location involves placement of a child and their siblings (in two or more placements) in the same geographical area which results in substantially increased opportunities for contact with each-other, for example, allowing them to attend the same school or child care centre, or participate in the same extracurricular activities.

Sibling contact

When a child and their siblings are placed separately subject to assessment, FACS and/or funded service providers (whichever has case management), ensure siblings:

- have regular sibling contact with each other – that is, the sibling bond is nurtured and does not necessarily need to be tied to 'family time' with parents or other extended family members
- are provided with information about their respective care arrangements, including information about changes in their placement

- are provided with information about their siblings' birthdays and other relevant dates, and where practical, have sibling contact time to celebrate these occasions
- are provided with their siblings' contact details, including their telephone number and email address, unless there is a court order prohibiting the disclosure of this information, or when a caseworker considers that disclosing this information could place the child or others in the household at risk of harm.

Proactive Efforts

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

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

Permanency Support Services

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

- the outcome of the SARA, and any risk re-assessment

- the case plan goal and action plan as identified with the family through Aboriginal Family-led Decision Making processes.

Given the significant impact of this decision on Aboriginal children and families, oversight is provided by Aboriginal Community Controlled Mechanisms. In this way, Aboriginal Community Controlled Mechanisms:

- ensure that families have been properly supported to participate fully in decision making processes
- ensure the proposed plan represents the best interests of Aboriginal children and young people
- ensure case plan goals are developed by Aboriginal children and young people and their families through Aboriginal Family-led Decision Making processes and
- provide community oversight and endorsement of :
 - the case plan, particularly where it includes transfer of parental responsibility and
 - reviews of the case plan, actions and achievement.

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

Permanency Coordinators work collaboratively with service providers to identify, allocate and access appropriate packages and culturally appropriate services to meet case plan goals, they also facilitate exits from OOHHC. Support packages are reviewed with service providers every 6 months to ensure that children and families achieve the permanency case plan goal.

Transfer of case management responsibility occurs through existing referral pathways during the FACS transitional period. Refer to [Other case management functions – case management transfer](#).

Permanency support services are targeted services that include:

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

These services are referred through [Aboriginal Family Strengthening](#).

- Restoration services – casework services that help parents, family/kin, carers and other significant people achieve the safe restoration of a child to their parent/s through the provision of active supports to address identified risks.
- Aboriginal Guardianship services – engages the child, their parent/s, family/kin, in exploring family and kinship care arrangements and assess the suitability of a proposed family member where parents have been unable to make the changes necessary despite the active efforts of tailored supports. Carers demonstrate that the child's cultural rights and relationship with their parents, family and community are safeguarded, with supports and monitoring provided by accredited Aboriginal agencies ensuring ongoing supports and connection.

- Long term care – aims to provide culturally embedded care where proactive efforts have not been successful in achieving restoration. Long term care providers maintain standards for accreditation, including demonstrating how important connections to family, community, culture and Country are being maintained.

Note on Adoption

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

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

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

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

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

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

The NSW Government position is that open adoption is a permanency option for Aboriginal children within the legislated parameters provided. Legislated permanent placement principles (section 10A) of the Children and Young Persons (Care and Protection) Act 1998 (the Care Act) provide for adoption as the last preference for Aboriginal children, when other preferences are assessed as 'not practicable or in the best interests of the Aboriginal child'.

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

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

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

Care arrangements for Aboriginal children and young people away from their parents

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

Caseworkers ensure that a child is:

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

FACS and service providers ensure:

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

If not, case management is allocated to an accredited non-Aboriginal service provider on the approved register of non-Aboriginal partner organisations maintained by AbSec. Such organisations have a stated ongoing commitment to case management by Aboriginal Community Controlled Organisations and demonstrated evidence of supporting actions to achieve this goal.

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

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

Temporary Care Arrangements

What is a Temporary Care Arrangement?

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

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

FACS places the child with an authorised carer (section 151(2)) in an OOHC placement (see [Placement Decision Making](#)). Aboriginal Family-led Decision Making processes are used to engage families and other informal supports, as well as identify and access formal supports, to safely restore Aboriginal children and young people to their family. Aboriginal Advocates are engaged at the earliest opportunity to ensure that parents are appropriately informed and able to provide free, prior and informed consent. The carer makes decisions regarding the day to day care of the child, including decisions in respect of consent to medical/dental treatment, managing behaviour, permission to participate in activities and decisions about education and training (section 157).

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

The period of any TCA is up to three months in a 12 month period (section 152). Subject to assessment, these arrangements may be extended for a further period of up to three months (in same 12 month period) where parents are capable of consenting. The maximum period for a TCA or multiple arrangements is 6 months in any 12 month period (section 152(4) (a)).

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

Key steps

- FACS visits a child, their parents and family/kin to carry out a SARA.
- During SARA, the child is assessed as unsafe and in need of care and protection, and the child requires a placement intervention.
- FACS involve relevant Aboriginal Community Controlled Mechanisms including Aboriginal Advocates in decision making and case planning.
- FACS and the parents sign a Temporary Care Arrangement (TCA) Agreement form agreeing to the Secretary having care responsibility for the child and the placement of the child with an authorised carer.

FACS prepares a case plan within 30 days of a child entering a TCA with a goal of restoration.

The TCA ends when:

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

Collaborating in arranging Temporary Care Arrangements

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

A funded service provider provides a TCA placement, noting that:

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

Respite

What is respite?

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

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

Respite can be provided by family/kin, friends, neighbours, volunteers or professional carers. Extended family members who provide regular, frequent respite to children in OOHC are required to be authorised in keeping with clause 33 of the *Children and Young Persons (Care and Protection) Regulations 2012*. Irregular, occasional arrangements, such as a friend’s sleep-over or babysitting are not considered to be a respite placement, and do not require the person providing respite care to be authorised.

Respite entitlement

Regardless of whether case management is held by FACS or a funded service provider, carers of a child in OOHC (NSW Child Safe Standards for Permanent Care), and parents of a child receiving PSP preservation casework, are entitled to respite.

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

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

Futures Planning and After Care

Caseworkers commence futures planning when a young person reaches 15 years of age. It includes details of holistic supports that are relevant to their individual needs, such as:

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

Futures Plans are:

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

Caseworkers:

- take proactive and responsive action by supporting a young person to maintain and rebuild strong and positive links to their family and community, including their connection to culture
- consider each young person’s unique experiences and characteristics, reflecting on the strengths and resources available to them
- develop plans in partnership with the young person and through Aboriginal Family-led Decision Making processes where they feel safe and supported by the people who matter to them
- develop plans that are consistent with transitioning from OOHC to independence
- engage recognised or accredited Aboriginal Community Controlled Organisations to support the development, endorsement and implementation of Futures Plans, including Reconnect 15+, as a key service for young people transitioning from statutory care.

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

Relevant Aboriginal Community Controlled Organisations support Aboriginal young people to achieve the goals and access supports outlined in the plan. Aboriginal Community Controlled Mechanisms provide oversight of Futures Planning, After Care planning and implementation processes.

Information Exchange

Chapter 16A allows FACS and service providers who are prescribed bodies to exchange information that relates to a child's or young person's safety, welfare or well-being. This is whether or not the child or young person is known to FACS, and whether or not the person to whom the information relates to gives consent to the information being shared. Where possible, consent is obtained to ensure best practice. Chapter 16A also requires prescribed bodies to take reasonable steps to coordinate decision making and the delivery of services regarding children and young people. FACS and prescribed bodies make reasonable efforts to provide relevant information requested (Chapter 16A and section 248) within 7 business days or within other timeframes for providing evidence.

Legal Issues - Court proceedings

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

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

This includes the outcomes of consultation through Aboriginal Family-led Decision Making processes and with Aboriginal Community Controlled Mechanisms, and demonstration of adherence to the Aboriginal Child Placement Principles.

- FACS seeks endorsement of Care Plans, including placement decisions and cultural planning, through Aboriginal Community Controlled Mechanisms, providing community oversight of Aboriginal case planning processes and informing the court of the views of

Aboriginal Community Controlled Mechanisms regarding Aboriginal children and young people.

During court proceedings, service providers with case management responsibility:

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

Providing evidence

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

The service provider makes reasonable efforts to provide the information to FACS within 7 business days of a request or contacts FACS to negotiate a different time frame.

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

An Aboriginal child who is subject to court proceedings has a Care and Cultural Plan developed prior to the making of a short term order or final order.

FACS consults with a service provider with case management responsibility when developing the Care and Cultural Plan ensuring that Aboriginal Family-led Decision Making processes are followed. This includes inviting the parents, family/kin and other significant persons to participate in a Care and Cultural Plan meeting and providing all parties with a draft copy for comment. Service providers provide written comments to FACS within 7 days or contact FACS to negotiate a different time frame.

FACS is responsible for seeking endorsement of the Care and Cultural Plan through Aboriginal Community Controlled Mechanisms.

The service provider is responsible for implementing those parts of the Care and Cultural Plan that are within its care responsibility and in accordance with regulatory obligations and standards, as well as with due regard to Aboriginal oversight through Aboriginal Community Controlled Mechanisms.

Court Outcomes

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

The information provided by FACS may include:

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

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

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

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

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

However a funded service provider casework practitioner may:

- give information to the child of a general nature in relation to court proceedings
- facilitate the child making contact with their legal representative
- facilitate the child making contact with a FACS casework practitioner that is giving instructions or involved in giving instructions in court proceedings.

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

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

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

Children’s Court Clinic Assessment

If a Children’s Court Assessment is required, the FACS care solicitor makes an application for a culturally appropriate assessor to undertake it. Where this is not possible, FACS seeks approval from the court for the Children’s Court Clinician to seek expert advice through Aboriginal Community Controlled Mechanisms.

Access to a Children’s Court Clinic Assessment report by a funded service provider that is not a party to court proceedings, can generally only be provided with leave of the Children’s Court. Exceptions include where the assessment report is an annexure or attachment to the child’s care plan.

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

Dispute Resolution Conferences (DRC)

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

In considering whether the employee attends, FACS considers:

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

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

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

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

- the relevance of the casework practitioner’s likely input to the issues in dispute
- whether the casework practitioner’s input will help all parties reach an agreement

- the extent of the casework practitioner’s relationship with the child
- whether the casework practitioner attends all or part of the DRC
- legal advice provided by the FACS legal officer or external legal practitioner
- any other relevant factors.

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

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

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

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

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

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

Section 76 or 82 reports

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

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

FACS is responsible for approving and filing the section 76 or 82 report prepared by the service provider – see The Functions of Parent Responsibility exercised by FACS. The service provider provides FACS with a copy of the section 76 or 82 report 7 business days prior to the date on which it is due to be filed.

New court proceedings

Any decision to initiate new care proceedings (section 61) or re-open (section 90) proceedings in the Children’s Court is made by FACS in consultation with a funded service provider with case management, and oversight of Aboriginal Community Controlled Mechanisms, including local accredited Aboriginal Community Controlled Organisations.

However a child, their parent, family/kin or any person with an interest in the welfare of the child can apply to re-open proceedings.

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

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

Section 90 proceedings

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

FACS provides a service provider with case management responsibility (that is not a party to court proceedings) with information about new court proceedings, for example section 90 applications filed by a parent or another person. Reasonable efforts are made by FACS to provide the information to the service provider as soon as the information is made available to FACS, and where possible, prior to the matter being listed in court.

Joint allocation of PR for children in OOHC

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

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

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

Other Case Management Functions

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

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

When case management of an Aboriginal child, their parents and family/kin transfers to a non-Aboriginal funded service provider, responsibility for day to day contact with the child, their parents and family/kin rests with that service provider. The service provider demonstrates and documents any significant decisions or actions concerning the child have been made through Aboriginal Family-led Decision Making processes and through engagement with recognised or accredited Aboriginal Community Controlled Organisation,

in lieu of transfer of functions to an accredited Aboriginal Community Controlled Organisation once capacity is available.

Identification and de-identification of Aboriginal children and young people

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

A child is to be considered an Aboriginal child and the Aboriginal Case Management Policy and Rules and Practice Guidance applied if the child is of Aboriginal descent. This requires engagement with Aboriginal communities through relevant Aboriginal Community Controlled Mechanisms. The Care Act empowers the Children's Court to make such a determination (Section 5).

Key points to consider include:

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

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

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

The de-identification of a child identified as an Aboriginal child is a serious matter as this decision fundamentally impacts on the cultural rights of Aboriginal children. If de-identification is being considered, this is always discussed with the representative of the Aboriginal Community Controlled Mechanism, noting clearly the evidence supporting the view that the child is not an Aboriginal child. Decisions about whether a child is an Aboriginal child are determined through an Aboriginal Community Controlled Mechanism. Delegation within FACS is at the Director level, with data about such processes shared with Aboriginal accountability mechanisms.

Safety review and risk re-assessment

Following case management transfer, FACS may review the initial safety assessment if new (non-ROSH) information is received and may:

- jointly review the initial safety assessment and safety decision with the funded service provider who holds case management responsibility
- conduct a risk re-assessment through Aboriginal Family-led Decision Making processes ensuring that the family is involved in all stages of the safety decision making

- consult with relevant Aboriginal Community Controlled Organisation or where this is not possible, consult with an Aboriginal representative through Aboriginal Community Controlled Mechanism
- liaise with the funded service provider to mutually contact the child, their parents and family/kin in order to continually assess risk.

Funded service providers continue to provide services during the safety review and risk re-assessment, sharing all information that would help inform FACS assessment.

Changes to a case plan goal

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

- notifies the Child and Family District Unit and Permanency Coordinator of the proposal to change and jointly consider the change
- provides evidence that Aboriginal Family-led Decision Making processes have occurred to inform the proposed change
- endorses (jointly with FACS) the decision to change or discontinue the case plan goal, following an Aboriginal Family-led Decision Making process.

Changes to case plan goals are oversighted by the Aboriginal Community Controlled Mechanism, particularly when, as a result, the child or young person will enter statutory OOHC.

Case management transfer

Case Management of Aboriginal children and young people in OOHC is transferred to a funded service provider that is an accredited Aboriginal community controlled agency in the first instance.

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

FACS districts and funded service providers initiate and respond to Case Management Transfer (CMT) as providers of preservation casework (non-OOHC) and as accredited child-safe providers of OOHC.

Caseworkers:

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

What is case management transfer?

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

- in relation to children that have a case plan goal of preservation, restoration, Aboriginal guardianship, or Aboriginal long term care

- on a specific case management transfer date – CMT does not occur across a range of dates or over a period of time.

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

Where possible, FACS transfers case management of the child and family to a funded service provider that is an accredited Aboriginal Community Controlled Organisation within their community of belonging; and is responsible for building service capacity, alongside AbSec, of accredited Aboriginal Community Controlled Organisations delivering the Permanency Support Program, in a timely manner. If this is not possible, FACS informs the relevant Aboriginal Community Controlled Mechanism and AbSec of the intention to transfer case management to a non-Aboriginal funded service provider on the approved register maintained by AbSec. FACS also notifies the Aboriginal Community Controlled Mechanism of any changes to the case plan goal resulting in entry to OOHC.

Case management transfer date ('CMT date')

Unless another date is agreed, the CMT date is:

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

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

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

Initial case management transfer

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

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

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

Case management transfer occurring during case management

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

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

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

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

- the person caring for a child (either family or authorised carer) moves to a different city or town, or a child is restored to a parent in a different city or town; requiring CMT to a

different provider operating in the child's new location

- a change in a child's case plan goal occurs and the funded service provider decides – in consultation with FACS, the child and their parents or family/kin – another funded service provider is more able to help achieve the new goal
- fulfilling the commitment to case management of Aboriginal children and young people by accredited Aboriginal Community Controlled Organisations
- a child's carer changes funded service providers by changing their authorisation (as carer) from their existing funded service provider to a funded Aboriginal Community Controlled Organisation.

FACS:

- where possible, transfers case management of an Aboriginal child, their parents and family/kin to an Aboriginal funded service provider within their community of belonging or if this is not possible
- informs the relevant Aboriginal Community Controlled Mechanism and AbSec of the intention to transfer case management to a non-Aboriginal funded service provider on the approved register maintained by AbSec or of the intention to place a child outside their community of belonging
- demonstrates to the Aboriginal Community Controlled Mechanism what attempts will be made to return the child to their community of belonging and how their cultural connections will be maintained through usual case planning
- establishes a strategy to transition case management to an accredited Aboriginal Community Controlled Organisation in the future as part of ongoing capacity building work
- notifies the Aboriginal Community Controlled Mechanism (from their community of belonging) of any changes to a case plan resulting in entry to statutory OOHC
- works to build service capacity so that Aboriginal children transfer to a funded service provider that is an accredited Aboriginal Community Controlled Organisation delivering the Permanency Support Program in a timely manner.

Responsibility for case management transfer tasks

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

- For placement of a child in foster care or Aboriginal foster care, the FACS CFDU makes a broadcast seeking a new OOHC placement.
- In the case of an OOHC placement in Intensive Therapeutic Care (ITC), the FACS CAU makes a broadcast seeking a new Intensive Therapeutic Care (ITC) placement.
- The transferring provider convenes a CMT meeting prior to, or within 10 business days of CMT date. This includes all administrative tasks such as:
 - updating the case plan or preparing a new case plan and circulating the meeting minutes and case plan within 5 business days (unless a different timeframe is agreed)
 - providing all documents listed in PCMP Resources – Checklist: Documents required for CMT to the receiving provider.

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

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

Internal FACS transfer

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

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

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

Approval of case management transfer

Prior approval is sought from FACS for CMT between funded service providers noting FACS is:

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

Case management transfer back to FACS

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

Delegation for accepting CMT to FACS is set at Category 5, FACS Manager Client Services (and above) in consultation with the FACS Contract Manager.

CMT from a funded service provider to FACS may include:

- the person caring for a child (either family or authorised carer) moves to a different city or town where there are no funded service providers operating or providing an outreach service and no other services can be purchased by the funded service provider
- an Away from Placement (unplanned absence) period has expired and no further funding has been provided by FACS
- circumstances in relation to an interstate movement of a child are so complex that they fall outside the scope of Interstate Movement of Children in OOHC

- a critical organisational incident (for example, suspension or cancellation of Child Safe Accreditation) has occurred and FACS and the funded service provider agree that the funded service provider can no longer provide case management or
- a child exits statutory OOHC and enters supported OOHC as the result of a court order (the Minister no longer holds PR).

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

Responding to new ROSH reports

FACS has statutory responsibility for assessing safety and risk in relation to a child (section 30).

ROSH reports about a child in the home of the parent or relative/kin – following case management transfer, FACS may conduct a new SARA assessment if a new ROSH report is received about a child and if the report concerns the child in the parents' home or another home. Refer to Safety And Risk Assessment.

ROSH reports about a child in OOHC – following case management transfer, FACS may conduct a risk of harm assessment (this is different to a safety and risk assessment) if:

- a new ROSH report is received about the child that does not raise allegations about the conduct of an authorised carer
- the report concerns the child in an authorised carer's home.

FACS may:

- liaise with the funded service provider to seek direct contact with the child, their parents and family/kin in order to conduct the assessment
- consult with the relevant Aboriginal Community Controlled Mechanism, or where this is not possible, consult with an Aboriginal representative through an Aboriginal-led process
- follow Aboriginal Family-led Decision Making processes when conducting the assessment.

Funded service providers continue to provide services during the risk of harm assessment, sharing all information that would help inform FACS assessment.

Collaborating in assessing Reportable Conduct

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

- Whilst FACS is responsible for conducting an Alternative Assessment, the funded service provider is responsible for assessing reportable or alleged criminal conduct of their employees, including the conduct of authorised carers
- FACS and the funded service provider each inform the other when an assessment is to commence
- FACS and the funded service provider conduct joint pre-assessment and post assessment consultation (where appropriate)

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

Interstate movement of children in OOHC

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

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

Requirement for permission & compliance with Interstate Protocol

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

- permission of a FACS Principal Officer, 42 days prior to any interstate movement
- involvement of Aboriginal children and young people, their family, community and relevant community organisations, and endorsement from the local Aboriginal Community Controlled Mechanism as part of normal case planning processes
- consultation with FACS Interstate Liaison and
- compliance with obligations and responsibilities articulated in the Interstate Child Protection Protocol.

The funded service providers role in requesting permission

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

- makes a request for permission from the FACS principal officer for the proposed interstate movement, using templates and guidance provided by FACS Interstate Liaison to plan for an interstate movement
- provides written information about how they propose to:

- support birth family contact, relationships and identity
- maintain support of the child and carer in the placement and
- support achievement of the child’s permanency goal
- provides information about how the child’s Aboriginal family and community have participated in this decision, clearly noting how these groups were proactively supported to participate and state their views
- provides information about a new placement (if a change to the placement is proposed) including evidence of the proposed carer’s authorisation as a carer in NSW
- notifies of any proposed change in funded service provider (if a change in funded service provider is required – see [Case management transfer](#))
- initiates a ‘proposal to change the case plan goal’ (if a change to the goal is proposed) providing evidence of prior casework and pre-assessment – see [Changes to a case plan goal](#)
- documents the outcome of the request for permission.

[FACS role in giving or declining permission](#)

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

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

The FACS principal officer:

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

[Requirement for a nominated FACS unit to hold secondary responsibility](#)

Although the Minister transfers case management to funded service providers, funded service providers are not delegated any powers and functions of PR (PR)³ in relation to interstate movements of children in statutory OOHC and cannot make these decisions.

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

The nominated FACS unit makes all decisions in relation to:

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

The nominated FACS unit:

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

Key steps - principal officer gives permission

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

- FACS' principal officer provides the funded service provider with written advice of:
 - the decision to give permission and any reasons for it and
 - any additional conditions that are to be met subject to permission taking effect.
- The funded service provider submits an updated OOHC case plan to the nominated FACS unit, at least 21 days prior to the proposed interstate movement.
- FACS Interstate Liaison provides advice and support to the principal officer and nominated FACS unit (as required).
- The funded service provider convenes an interstate movement meeting with the nominated FACS unit and any other relevant stakeholders. This includes all administrative tasks such as updating the case plan or preparing a new case plan and circulating the meeting minutes and case plan within 5 business days (unless a different timeframe is agreed).
- An officer of the nominated FACS unit with decision making delegation (grade nine or above) attends the meeting.
- The purpose of the meeting is to identify roles and responsibilities of each stakeholder, considering:
 - actions prescribed by relevant legislation and regulations in the receiving jurisdiction
 - what requests are to be made of the interstate child protection department under the Interstate Child Protection Protocol
 - how the funded service provider will respond to possible placement breakdowns, allegations against the proposed carer, reportable conduct, and quality of care concerns
 - how FACS will assess possible ROSH reports and what support will be required of the funded service provider and
 - how interstate transfer of the child's care order will be facilitated.

Key steps - principal officer declines to give permission

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

- The FACS principal officer provides the funded service provider with written advice of the decision to decline to give permission and the reasons for this decision.
- FACS Interstate Liaison provides advice and support to the principal officer and nominated FACS unit (as required).
- The funded service provider convenes a *case meeting* with the nominated FACS unit, the child's current carer and/or proposed carer, the child, their parents or family (where appropriate) and any other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within 5 business days (unless a different timeframe is agreed).
- An officer of the nominated FACS unit with decision making delegation attends the meeting. The purpose of the meeting is to:
 - provide the carer with information and the rationale for the decision
 - listen to the carers views and wishes and
 - explore alternatives that meet the child's needs and how these are to be funded.
- The funded service provider prepares and submits to FACS an updated OOHC case plan that addresses the child's needs in the context of the child remaining in NSW. For example, it may include regular visits to interstate family/kin under an interstate travel authority.

Key steps - interstate movement of a child occurs without permission

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

- The FACS principal officer writes to the funded service provider and requests they provide, within seven days, written information about:
 - the circumstances that led to the interstate movement including key dates, residential address, school in which the child is enrolled, persons involved and
 - the reasons why permission for the interstate movement wasn't obtained.
- The funded service provider provides information requested by the FACS principal officer. Additionally the funded service provider provides information about how they are currently:
 - supporting birth family contact, relationships and identity
 - maintaining support of the child and carer in the placement
 - supporting achievement of the child's permanency goal and
 - engaging with the child's Aboriginal family and community regarding this decision, clearly noting how these groups are proactively supported to participate and their views.
- FACS Interstate Liaison provides advice and support to the principal officer and nominated FACS unit (as required).

- FACS Commissioning and Planning provide advice to the nominated FACS unit (as required).
- The funded service provider convenes an urgent interstate movement meeting, within 14 days, with the nominated FACS unit and any other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within 5 business days (unless a different timeframe is agreed).
- An officer of the nominated FACS unit with decision making delegation (grade nine or above) attends the meeting.
- The purpose of the interstate movement meeting is to:
 - explore what case-specific, systemic or other issues brought about the interstate movement without permission
 - consider any contractual or funding issues arising from the movement
 - inform the funded service provider that funding (foster care package only) will temporarily cease because it has become an unauthorised arrangement
 - consider whether any party has acted in breach of the Care Act, Child Protection (Working with Children) Act 2012, or other statute and
 - discuss and record minimum requirements (including timeframes) for resolution.
- In some circumstances, the nominated FACS unit convenes a legal consultation with the FACS Child Law Legal Officer to obtain additional legal advice. For example, advice in relation to:
 - issuing a direction under section 154(2)(b) or 232 or
 - seeking a warrant under section 233.
- FACS' principal officer, having considered all of the information and advice, makes a decision to give, or decline, permission for the interstate movement of the child.
 - If permission is given, refer to Principal officer gives permission.
 - If permission is not given, refer to Principal officer declines to give permission.
- In addition when permission is not given, the nominated FACS unit convenes a follow-up interstate movement meeting with the funded service provider and other relevant stakeholders. This includes all administrative tasks such as circulating the meeting minutes within 5 business days (unless a different timeframe is agreed).
- The purpose of this meeting is to identify roles and responsibilities of each stakeholder, considering:
 - how the funded service provider intends to address the minimum requirements for resolution
 - what actions are prescribed by relevant legislation and regulations in the receiving jurisdiction
 - what actions are to be taken by FACS, arising from legal advice and
 - what requests are to be made of the interstate child protection department under the Interstate Child Protection Protocol.

Key steps - funded service provider becomes aware of ROSH

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

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

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

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

Reviewable decisions

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

Roles of key stakeholders

Aboriginal children and families as key decision makers	Aboriginal children and families drive key decisions and establish action plans to address risks, providing a culturally enriched developmental context for children to grow and thrive.
Aboriginal Community Controlled Mechanism	Provide oversight and a key point of interaction between the statutory child protection system and Aboriginal families and communities, including endorsement of case plans, oversight of Aboriginal Family-led Decision Making processes and other key processes. They are established by Aboriginal communities through their own governance processes.
Aboriginal Community Facilitator	Facilitate Aboriginal Family-led Decision Making processes, supporting families to feel safe, equipping them with key information and advice and empowering them to determine their own goals, priorities and action plans to address risks and provide safe and culturally enriched care for Aboriginal children and young people.
Aboriginal Advocate	Advocate on behalf of Aboriginal children and families promoting full enjoyment of their rights and active participation in all processes and decisions that affect them across the continuum of support.
Accredited Aboriginal Community Controlled Organisation	An Aboriginal Community Controlled Organisation that is accredited by the Office of the Children’s Guardian to provide out-of-home care services to children and young people in NSW, including cultural planning and implementation.
Recognised Aboriginal Community Controlled Organisation	A relevant Aboriginal Community Controlled Organisation that has been identified by AbSec as a suitable organisation to support and oversee cultural planning and implementation for Aboriginal children and young people in statutory care.
Commissioning and Planning (C&P)	Improve service system capacity and capability to provide children, their parents and families/kin with quality services. They collect data in relation to performance of the Packaged Care Service Model.
Contract Managers	Work closely with funded service providers and other service providers to implement contractual arrangements and develop their capacity to deliver permanency support services to children, their parents and families/kin.
Aboriginal Permanency Coordinators	Have extensive knowledge about services provided locally in the service system. They act as a link between FACS and funded service providers and other service providers, providing advice about service packages to achieve the permanency case plan goal. Aboriginal Permanency Coordinators are not assessors or decision makers and do

	<p>not provide specialist practice advice. They are Permanency Support Program experts and provide advice and support to all stakeholders under the program. They oversight the minimum review periods under the Permanency Support Program between FACS and funded service providers.</p>
<p>Child and Family District Units (CFDU)</p>	<p>In each FACS district, acts as the key interface between funded service providers and other service providers and FACS in relation to children by:</p> <ul style="list-style-type: none"> • coordinating referrals to these service providers to provide services for children, their parents, family/kin and carers • supporting these service providers to administer case management • exercising the powers and functions of PR (if the child is in OOHC).
	<p>CFDUs provide advice to funded service providers and other service providers regarding:</p>
	<ul style="list-style-type: none"> • operation of the Aboriginal Case Management Policy, Rules and Practice Guidance • local district structure and operating models
	<p>CFDUs are also the point of contact for funded service providers and other service providers where there has been a significant change in relevant circumstances for the child, their parents and family/kin that requires review. They liaise with district C&P teams (including Contract Managers), Permanency Coordinators and local CSC casework teams when contacted by services providers about:</p>
	<ul style="list-style-type: none"> • providing information and data in relation to the achievement of case plan goals • proposals to change a case plan goal • notifying intention to cease case management and • case management transfer.
	<p>CFDUs liaise directly with the Aboriginal Community Controlled Mechanism to notify:</p>
	<ul style="list-style-type: none"> • intention to transfer case management of an Aboriginal child to a non-Aboriginal funded service provider • intention to transfer case management of an Aboriginal child to a location that is not their community of belonging • a proposal to change case plan goal to long term care.
<p>FACS CSC casework teams</p>	<p>Work collaboratively with service providers, Aboriginal Community Controlled Mechanisms when:</p>

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

Glossary

Aboriginal Child and Family Wellbeing

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

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

Aboriginal Child Placement Principles

In applying the Aboriginal Child Placement Principles, caseworkers:

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

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

Aboriginal Community Controlled Mechanisms

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

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

Aboriginal Community Controlled Organisation

An Aboriginal Community Controlled Organisation (ACCO):

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

Aboriginal Peak Body

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

Aboriginal Family

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

Aboriginal Family-led Decision Making

The Care Act (section 12) provides legislative guidance to ensuring participation of Aboriginal families and communities in decision making and actions affecting them; including being consulted in the care and protection of their children. Consistent with the principle of self-determination (section 11), these systems are designed and administered by Aboriginal communities through their own decision making structures. Caseworkers engage these processes early in the continuum of support and choose a method that is suitable to the family noting that the core elements of Aboriginal Family-led Decision Making include:

- Aboriginal Community Facilitator

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

- Family as key decision making partners

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

- Family make their own ‘family plans’

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

- Follow up efforts

Aboriginal Family-led Decision Making is not a one-off process, but reflects a commitment to create a network of care for Aboriginal children and their families, drawing on both informal and formal supports. Caseworkers reconvene meetings to review the implementation of case plans, consider new information or recent developments and identify any new actions to be included or resources required. Proactive efforts are made to ensure that families are adequately supported to achieve the identified goals, strength family functioning and keeping children safe.

Accredited Aboriginal Community Controlled Organisations

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

Best Interests Principle

Caseworkers recognise that all actions concerning the best interests of an Aboriginal child are paramount to ensuring their safety, where necessary. In doing so, caseworkers consider the cultural rights of the child and their need to exercise such rights collectively

with members of their family and community.⁴ Consideration is given to the holistic rights of an Aboriginal child, including their rights to safety, their rights to live with family, their rights to access health, education and housing in order to reach their full potential. These rights can only be determined in partnership with Aboriginal families and communities, including them in all decisions about the care and protection of their children.

Aboriginal and Torres Strait Islander Principles

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

Culturally Responsive Case Management

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

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

Culturally Embedded

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

Endorsement

Endorsement by Aboriginal Community Controlled Mechanisms aims to:

- improve compliance with the policy and these rules and practice guidance
- promote greater accountability in decision making and outcomes achieved for Aboriginal children, young people.

Endorsement by Aboriginal Community Controlled Mechanisms includes:

- verifying that actions were taken to comply with these rules and practice guidance and the extent of this compliance
- written recording of their view with respect to decisions affecting Aboriginal children and young people including with respect to care planning, case planning, case plan review, permanency and placement decisions and cultural planning.

Oversight

Oversight by Aboriginal Community Controlled Mechanisms aims to:

⁴ Article 30, Indigenous children and their rights under the Convention, General Comment No.11(2009)

- ensure the participation of Aboriginal children and young people, their families/kin in decision making by FACS and service providers
- empower Aboriginal children and young people, their families/kin, and extended families, to set their own goals, priorities and action plans
- ensure implementation of the policy and these rules and practice guidance
- Achieve greater accountability in decision making and outcomes achieved for Aboriginal children and young people

Oversight by Aboriginal Community Controlled Mechanisms includes:

- providing input and feedback to FACS and service providers in relation to safety and risk assessment and case management, promoting greater validity in assessment and casework practice
- ensuring the provision of culturally informed, culturally responsive and culturally safe approaches to casework practice
- monitoring service system performance to promote best practice with Aboriginal children, families and communities.

Participatory Approaches

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

Structured Decision Making[©]

A suite of tools used by FACS to guide decision making about Safety Assessment, Risk Assessment, Risk Re-assessment, Restoration Assessment and Screening and Response Priority.

Day

Unless otherwise stated in this document, all references to a 'day' is a reference to a calendar day (not a business day).

Proactive Efforts Standard

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

Recognised Aboriginal Community Controlled Organisation

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

Strengths-based, family-centred

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

Trauma-informed practice

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

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

Principles of trauma-informed practice emphasise the need to help both children and parents feel safe. This limits further experiences of trauma, and provides the space required to facilitate change. Relationships are critical to helping Aboriginal children and families feel safe, and are supported by an understanding of how trauma affects their thoughts, feelings and behaviours, as well as an understanding of their beliefs and values (culturally competent practice). Trauma-informed practice empowers families to take control of, and responsibility for, their own healing and recovery, including for the care and protection of their children, facilitating changes that are more likely to be sustainable.⁵

Legislative Background

NSW Legislation

The Children and Young Persons (Care and Protection Act) Act 1998 establishes the legislative framework providing child protection and out-of-home care services in NSW.

Children and Young Persons (Care and Protection) Regulation 2012 forms part of the framework for providing OOH services, particularly the need for providers to be accredited as designated agencies through the NSW Children's Guardian.

Children's Court Act 1987 establishes roles and responsibilities of the Children's Court.

The Adoption Act 2000 is the legal framework for the adoption of children in NSW and (in conjunction with other legislation) those from overseas.

Privacy and Personal Information Protection Act 1998 sets out requirements for the collection, storage, access and accuracy, use and disclosure of personal information.

Health Records and Information Privacy Act 2002 sets out requirements of collection, storage, access and accuracy, use and disclosure of personal health information.

⁵ Gray, P. (2016). Trauma Informed Practice, AbSec State-wide Conference.

Community Services (Complaints, Review and Monitoring) Act 1993 provides the Ombudsman with the power to conduct systemic reviews of the deaths of children at risk of harm or those in OOHC.

Ombudsman Act 1974 sets out the role of the Ombudsman in monitoring and reviewing the provision of community services, overseeing allegations of reportable conduct and complaint handling.

Guardianship Act 1987 sets out responsibilities, functions, orders and principles applied by the Guardianship Tribunal to appointing guardians for people with disabilities, including young people aged 16-17.

Crimes Act 1990 defines criminal conduct.

Coroners Act 1980 requires the Coroner or the Deputy Coroner to examine certain child deaths, including those of a child in OOHC and a child in respect of whom a report was made under Part 2 of Chapter 3 of the Children and Young Persons (Care and Protection) Act 1998.

Victims Rights Act 1996 and Victims Support and Rehabilitation Act 1996. A child who has experienced abuse may be eligible for compensation. Victims Services NSW runs the scheme, which also helps victims in other ways, such as with counselling, support and information.

Commissioning for Children and Young People Act 1998 which provides for conducting the Working with Children Check and also administering the Child Sex Offender Counsellor Accreditation Scheme.

Commonwealth Legislation

Privacy Act 1998 sets out the requirements for the collection, use and disclosure of personal information (including non-government agencies).

Family Law Act 1975 (section 69ZK) gives the Family Court of Australia and Federal Magistrates Court power to make decisions and make orders in respect of children; and covers disputes between persons with an interest in a child's care (usually parents) where the child is not necessarily 'at risk'.

Background

Frameworks

NSW Practice Framework – A framework that supports and guides the way in which FACS work with, and makes decision about children, their parents and families/kin.

NSW Quality Assurance Framework – A framework that provides caseworkers with access to reliable and comprehensive information in relation to outcomes for children in statutory OOHC.

Funded Contract Management (FCM) Framework – describes the way in which FACS and funded service providers and other service providers manage their contractual relationship. It ensures that governance, financial management and service delivery mechanisms are in place so that services are delivered effectively and efficiently.

Guiding Principles for Strengthening the Participation of Local Aboriginal Community in Child Protection Decision Making – guide the partnership between local Aboriginal communities and FACS to improve participation in decision making, developed by Grandmother's Against Removals and other stakeholders.

Human Services Outcomes Framework – provides a common set of population-level wellbeing outcomes and indicators for NSW Government and non-government agencies.

NSW Therapeutic Care Framework – A framework that guides service provision and works towards improving outcomes for children in statutory OOHC.

Polices and Instruments

Creating Cultural Connections for Aboriginal Children and Young People – A reference guide for caseworkers in cultural planning, keeping Aboriginal children connected to their families, communities, culture and Country.

Creating Meaningful Aboriginal Connections Guide – a reference guide for caseworkers to consistently, effectively and sensitively work with Aboriginal children, families and communities, embedding principles of self-determination and participation through a cultural lens.

NSW Charter of Rights for Children and Young People in Care – outlines the general rights and responsibilities of every child and young person in OOHC. These rights reflect those of any child. The Children and Young Persons (Care and Protection) Act 1998 requires that these rights are supported by carers and caseworkers.

Caring for Kids – A carer guide with basic information about which decisions are made by the carer and which need to be made by the agency.

NDIS interface – guidelines for managing the interface between Early Intervention, Child Protection and OOHC with the NDIS.

Standards

Care and Protection Practice Standards – Key expectations of FACS caseworkers and leaders in their work with children, their parents and families/kin.

NSW Child Safe Standards for Permanent Care – standards which support a dual accreditation process for agencies providing statutory OOHC and adoption services.