QCPCI

QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

Date: 14.1.2013

Exhibit number: 139

STATEMENT OF WITNESS

I, William (Bill) Ivinson, of [redacted] solemnly and sincerely affirm and declare

Background

1. I currently hold the position of Head of School of Indigenous Australian Peoples, Southbank Institute of Technology
2. Prior to taking that position I was the Law and Justice Advocacy Developmental Officer at the Aboriginal & Torres Strait Islander Legal Service (Qld) Ltd

Matters organisation wants to inform the Queensland Child Protection Commission of Inquiry ('QCPCI')

1. Section 83 Child Protection Act 1999-child placement principle[1]
2. I commenced duties with the Department of Child Safety in May 2007 as Principal Indigenous Policy Officer, within the Policy and Programs Division.

3. Amongst the normal duties pertaining to this position, my first major role was to research and develop a response to the Provisional Indigenous Child Placement Principle Audit Report ('PICPPAR') 2008[2].

4. This report was tabled to the then Premier in accordance with section 163 of the *Commission for Children and Young People and Child Guardian Act 2000* by Elizabeth Frazer, the then Commissioner for Children and Young People and Child Guardian.

5. The report detailed her findings and recommendations regarding 'the extent of compliance by the Department of Child Safety with section 83 of the *Child Protection Act 1999*, which establishes a specific process that the Department of Child Safety

[1] http://www.ccypcg.qld.gov.au/pdf/publications/reports/icpp2010-11/icpp-complete-report.pdf
[2] http://www.ccypcg.qld.gov.au/pdf/publications/reports/icpp/icpp-complete.pdf

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must follow when placing Aboriginal and Torres Strait Islander children and young people in out-of-home care'.

6. Elizabeth Fraser noted in her introduction to the report: that 'as the first independent audit of the Department of Child Safety's compliance with the Indigenous Child Placement Principle I envisage that my findings and recommendations will assist the Department of Child Safety to build its capacity to comply with this important decision-making process, leading to better outcomes for Aboriginal and Torres Strait Islander children and young people in out-of-home care'.

7. 101 placement decisions in relation to 28 Aboriginal and Torres Strait Islander children and young people from across Queensland were considered by the audit.

8. The audit claimed 'eighty-two of the 101 placement decisions were made after the enactment of section 83 of the *Child Protection Act 1999'*.

9. The audit explored whether the Department of Child Safety had complied with its obligations under section 83 of the *Child Protection Act 1999* and also considered whether there had been any change in the extent of compliance since the Crime and Misconduct Commission inquiry into abuse in foster care identified lack of compliance as an issue and made recommendations designed to strengthen the legislative basis of the Child Placement Principle.

10. The audit findings were summarised as follows:

    - *'None of the Department of Child Safety's placement decisions that were audited contained records that evidenced full compliance with all the required steps of section 83 of the Child Protection Act 1999.*
    - *Based on the audit sample, there has been no evident improvement in the extent of the Department of Child Safety's compliance with section 83 of the Child Protection Act 1999 since the Crime and Misconduct Commission inquiry into abuse in foster care identified lack of compliance with the Child Placement Principle as a significant issue.*
    - *The Department of Child Safety's public reporting about section 83 of the Child Protection Act 1999 suggests that it is achieving a significantly higher level of compliance than was evident in the audit sample. (However, this is based on a different counting methodology).*
    - *The Department of Child Safety's current policies, procedures and information management systems do not provide sufficient guidance and support for the day-today decisions of frontline staff about the Child Placement Principle'.*

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11. My evaluation of the above-mentioned report concluded with the following findings and/or recommendations:

    - that significant procedural and definitional gaps exist in the *Child Protection Act 1999* and the Child Safety Practice Manual;

    - these gaps needed examination to determine the extent in regard to Recognised Entities. This needed to occur with extensive consultation of the entities and negotiation on the practicality of interim reforms recommended;

    - wherever frontline Child Safety Officers are 'practically unsupported' by the department, definitive description of the needed support will need to be developed to ensure appropriate resources are provided to reach compliance;

    - that the department of Child Safety through its Policy and Program Division develop a practice paper to inform actions needing to be taken to ensure compliance with section 83 of the *Child Protection Act 1999* is met wherever practicable. It was recognised that this paper would also inform reasoning as to when it is deemed impractical to continue to attempt compliance when it is unable to do so;

    - that an immediate establishment of policy occur to set a compulsory requirement for all departmental 'first contact' personnel to methodically enquire as to the preferred cultural identity of clients;

    - the development of a 'How to proceed' information Manual needed to commence to ensure adequate guidelines were included in all aspects of service delivery to the Indigenous Child Placement Principle;

    - a methodology plan would be required to be developed to carry out necessary 'gap-filling' of services provided in relation to the Indigenous Child Placement Principle;

    - comprehensive guidelines needed to be developed to assist and support departmental officers in the process of consultation with Recognised Entities;

12. Serious consideration to the complexity of achieving recommendations needed to occur incorporating serious consideration of the many factors inhibiting smooth implementation of Section 83 of the *Child Protection Act*. They included:
    - Knowledge of Moiety (Skin) relationships;
    - Factors that formulate extended family;

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- Absence of culturally appropriate training within this area of expertise;
- Limited scope to develop and deliver such training;
- Breakdown of family structured knowledge.

13. A further consideration was that from a government perspective, it was necessary to consider a unique project that would assist each Aboriginal or Torres Strait Islander community to capacity build within this area of concern. Part of that capacity development could be to establish personnel within each major language group area to act as 'Community Brokers' to facilitate the gaining of 'family knowledge'; while consideration would need to be given to an external working group to act as a reactor group to the department on the development of such a project, it was also be necessary to ensure Recognised Entities played a pivotal role within such an area of development.

14. Key agencies considered, that could be consulted toward the establishment of an appropriate framework included the Community and Personal Histories Section of the Department of Communities, Qld State Archives, National Native Title Tribunal and the at that time recently formed First Nation Peoples Cultural Heritage Aboriginal Corporation.

15. Section 9.3.1 discussed section 83(4)(c) and (4)(d) of the Child Protection Act 1999 highlighting that where a placement option is to be considered from within the child's family and community, identification of placement options with 'compatible' Indigenous carers and, where this option is exhausted, 'other' Indigenous placement options are to be utilised.

- The PICPPAR recommended the development of comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in:
  - understanding the concept of a compatible Indigenous carer
  - gathering relevant information to decide if an Indigenous carer is compatible with an Indigenous child, and
  - making a decision about an Indigenous carer's compatibility with an Indigenous child.

16. My evaluation recommended that the issues raised in this recommendation (11) be met by the development of specialised training that can be made available to all staff requiring an extensive knowledge and guideline process.

17. It was also recommended that this training be integrated into cultural competency training.

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- The PICPPAR recommended that the department enhance the Integrated Client Management System to allow for recording of Aboriginal and Torres Strait Islander carer's cultural information.

18. Whilst recommendation twelve (12) was supported in principle, it was also recognised that it would be necessary to consult with broader Aboriginal and Torres Strait Islander communities of Queensland as to the extent and field presentations that will actually be required to be inclusive.

19. The concept of what could be classed as being 'near' in recommendation 14 of the PICPPAR needs to be fully examined.

20. Section 83 (6) (a) & (b) of the *Child Protection Act 1999* states
    (a) "a person who lives near the child's family; or
    (b) a person who lives near the child's community or language group."

21. This does not assist any real understanding of the concept when it comes to specific elements such as culture and geographical location.

22. It was recommended that these concerns be informed by appropriate consultation with community.

23. The PICPPAR made note that Section 83 of the *Child Protection Act 1999* is silent about what placement options should be identified for Indigenous children when all placement options in section 83(4) and (6) have been exhausted.

24. Based on information at hand at that time, recommendation fifteen was given 'in principle' support. It was recommended that the practicality of implementation would need to be examined and would be reliant upon an appropriate framework being developed to collect the information required.

25. Recommendation 16 called for the department to 'develop comprehensive guidelines for inclusion in the Child Safety Practice Manual that assist and support departmental officers in identifying appropriate placement options for Indigenous children when the options set out in section 83(4) and (6) of the *Child Protection Act 1999* have been exhausted.

26. This recommendation was agreed to in principle. There are of course many issues that needed to be considered and extensive program development that would need to occur prior to this recommendation being able to be fully implemented.

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27. Following this evaluation I conducted a business case to management who agreed to the release of an Aboriginal and Torres Strait Islander Child Placement Principle discussion paper followed by the conduct of a state-wide consultation.

28. Annexed and marked 'Attachment A' is a copy of the Aboriginal and Torres Strait Islander Child Placement Principle Discussion Paper.

29. The discussion paper was released in August 2008 and I commenced consultations in that month. From Monday 25 August 2008 till 31 October 2008, Department of Child Safety staff and recognised entity staff were encouraged to have their say on the best methods for placing Aboriginal and Torres Strait Islander children in care and helping them keep in contact with their culture.

30. It was anticipated that feedback on the discussion paper would be used to help make the Child Placement Principle easier and clearer to apply in practice. Feedback from staff indicated that there was a need to clarify and provide extra guidance about the principle, to ensure it can be consistently applied throughout the state.

31. On 20th March 2009, following successful state-wide consultations I produced the draft final report and presented it to the then Director General of the Department of Child Safety. The aim at that point was to ensure appropriate protocols and report requirements were met prior to final presentation.

32. Annexed and marked 'Attachment B' is a copy of the draft report.

33. Unfortunately it was at this same time that the then Director General was removed from office following a decision by the labour government to amalgamate departments. I was advised by my then Director, Lone Keast, that there was no provision to receive the final document and that all efforts and expenditure during the discussions and subsequent consultations had been wasted. I was advised to take my findings and report no further.

34. A short time after the changes in government occurred, I decided I did not wish to be part of a system that adversely effected the lives of Aboriginal and Torres Strait Islander children and made the decision to resign my position due to lack of faith in the then present government.

AFFIRMED by William Ivinson on 26 **/ 09 / 2012 at Brisbane**

in the presence of Lisa Stewart

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Attachment Marking

This and the preceding 27 pages in the annexure mentioned and referred to as 'Attachment A' in the statement of William Ivinson taken on 26 September 2012

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Child protection... our first priority

Aboriginal and Torres Strait Islander Child Placement Principle Discussion Paper

Queensland Government

Department of Child Safety

Aboriginal and Torres Strait Islander Child Placement Principle Discussion Paper

Disclaimer:

The information contained in this paper is to facilitate the Department of Child Safety's consultation regarding the Aboriginal and Torres Strait Islander Child Placement.

The paper does not reflect Queensland Government policy.

Director - General's Foreword

It is the Department's aim to strengthen the delivery of culturally appropriate and responsive child protection services for Aboriginal and Torres Strait Islander children and their families, across Queensland.

The Queensland government adopted the Aboriginal and Torres Strait Islander Child Placement Principle in the mid 1980s and since 1999 the principle has been enshrined in law in the *Child Protection Act 1999*. In 2006, the legislative provisions were amended as a result of the Crime and Misconduct Commission recommendations arising from its report, *Protecting Children: An Inquiry into Abuse of Children in Care (2004)*.

The Department has, consistent with national reporting standards, reported compliance with the principle in terms of the percentage of Aboriginal and Torres Strait Islander children and young people living away from home with a Kinship Carer or Aboriginal and Torres Strait Islander Carer. At 30 June 2007, 61.2 per cent of Aboriginal and Torres Strait Islander children in out-of-home care met this criterion.

The Department is committed to achieving culturally appropriate outcomes in the best interests of Aboriginal and Torres Strait Islander children in its care. This is not just about the process of compliance but about helping children grow up with a sense of Aboriginal and/or Torres Strait Islander identity and remaining connected with their family, community and culture.

This discussion paper examines the application of the Aboriginal and Torres Strait Islander Child Placement Principle and the steps necessary to comply with the principle.

This paper forms the basis for consultation with departmental staff and recognised entity staff. The results of consultation will inform the development of practical guidelines to assist departmental staff and recognised entities to work with Aboriginal and Torres Strait Islander children and families to achieve quality outcomes for children.

Norelle Deeth
Director-General

Contents

1 *The final Indigenous Child Placement Principle Audit Report 2008 by the Commissioner for Children and Young People and Child Guardian.*

Introduction

Aboriginal and Torres Strait Islander children are over-represented in the Queensland child protection system. Around 6 per cent of children in the general population are of Aboriginal and/or Torres Strait Island descent, yet as at 30 June 2007, approximately 29 per cent of all children placed in out-of-home care were of Aboriginal and Torres Strait Islander descent.

This paper highlights issues relating to the placement of Aboriginal and Torres Strait Islander children in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle.

It is not the intention to combine Aboriginal and Torres Strait Islander peoples under the same cultural description. Both are unique cultures and all issues presented reflect the particular culture discussed. However, much of the discussion within this paper will reflect both cultures and is inseparable.

Background of the Aboriginal and Torres Strait Islander Child Placement Principle

The Aboriginal and Torres Strait Islander Child Placement Principle was developed by Aboriginal and Islander Child Care Agencies (AICCAs) in the 1980's in response to concerns about the large number of Aboriginal children in the care of non-Aboriginal families. In developing the Child Placement Principle, the AICCAs drew inspiration from the advances in the United States (US) regarding American Indian child welfare.

The *Indian Child Welfare Act 1978* of the US was enacted by the American Federal Congress to

- protect the best interests of Indian children
- promote the stability and security of Indian tribes through the establishment of minimum standards for the removal of Indian children from their families
- place such children in foster or adoptive homes that reflect the unique values of Indian culture.[2]

An Aboriginal and Torres Strait Islander Child Placement Principle policy statement was jointly agreed to by the then Queensland Department of Families, Youth and Community Care and State AICCAs in December 1998. The principle outlined the following placement preferences for Aboriginal and Torres Strait Islander children:

"If efforts to maintain a child at home are unsuccessful and alternative placement becomes necessary:

- *Initial preference should be given to placement with a member of the child's family;*
- *Second preference should be a member of the child's community or language group;*
- *Third preference should be another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group;*
- *Fourth placement preference is with other Aboriginal or Torres Strait Islander people. Preferably they should be living in close proximity to, and be compatible with, the child's community or language group".*

2 *Section 1915, the Indian Child Welfare Act 1978*

The Aboriginal and Torres Strait Islander Child Placement Principle further outlined that: *"Placements must enable the best possible retention of the child's relationship with parents, siblings, extended family, community and culture, in a manner which best serves the welfare and interests of the child. Traditional, cultural obligations such as initiation or funeral obligations may apply to some children in care. Therefore, placements must account for children being able to access these cultural obligations. Advice from the community must be sought".*

In 1999, this commitment to place Aboriginal and Torres Strait Islander children requiring out-of-home care in accordance with the hierarchy was enshrined within the legislation. Legislation also requires involvement of Aboriginal and Torres Strait Islander people in significant decisions about an Aboriginal or Torres Strait Islander child.

The objective of the principle is to give recognition to an Aboriginal or Torres Strait Islander child's right to be raised in their own culture, and to the importance and value of immediate family, extended family, kinship networks, culture and community in raising Aboriginal and Torres Strait Islander children.

The principle is regarded by Aboriginal and Torres Strait Islander people as an essential policy tool in effectively managing the cultural needs of children within the child protection system. In support of the policy position, the Queensland Aboriginal and Torres Strait Islander Child Protection Partnership (the Partnership) developed the report, 'Pathway to Achieving Adherence to the Aboriginal and Torres Strait Islander Child Placement Principle in Queensland, 2007'.

The report confirms, *"the purpose of the principle is to preserve and enhance Aboriginal and Torres Strait Islander children's sense of identity as Aboriginal or Torres Strait Islander people through maintaining children safely within their own family, community and culture. It seeks to strengthen family life through recognising the value of the extended family, kinship arrangements, culture and community in raising children."*

History

When considering the future actions required to provide a culturally appropriate and relevant service to Aboriginal and Torres Strait Islander children and families, it is important to understand the history of Aboriginal and Torres Strait Islander peoples and cultures in Australia.

Many Aboriginal and Torres Strait Islander families live under severe social strain due to a range of socio-economic factors. Alcohol and substance misuse, and overcrowded living conditions are just some of the factors which can contribute to child abuse and violence.[3]

3 *Overcoming Indigenous Disadvantage – Key Indicators 2005*

The over-representation of Aboriginal and Torres Strait Islander children in confirmed cases of child abuse and neglect and the number of children in out of home care accompanies a number of other risk factors including:

- poverty
- poor socio-economic status (poor housing, poor health and high unemployment)
- inter-generational effects of previous separations
- alcohol and substance abuse
- family violence
- trans-generational sexual-abuse
- dispossession
- absence of cultural identity
- acceptance of un-social behaviour as 'normal behaviour'.[4]

An understanding of the historical and socio-cultural factors that affect Aboriginal and Torres Strait Islander families and individuals is an important aspect of effectively working with Aboriginal and Torres Strait Islander people, particularly in child protection and out-of-home care contexts.

Questions

1. What could the Department do to support staff in gaining knowledge and understanding of Aboriginal and Torres Strait Islander people and their cultures and histories?
2. What could be undertaken at a local level with staff to develop cultural understanding?
3. What can be done to support staff to deliver services in a culturally competent manner?

Statistics and current reporting of the Aboriginal and Torres Strait Islander Child Placement Principle

The proportion of children reported as placed in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle includes those where the outcome of the placement decision was to place a child with a kinship carer, Aboriginal and Torres Strait Islander carer or Aboriginal and Torres Strait Islander residential care service.

As at 30 June 2007, of the Aboriginal and Torres Strait Islander children placed in out-of-home care with carer families or residential care services, 61.2 per cent were placed with a kinship or Aboriginal and Torres Strait Islander carer, or an Aboriginal and Torres Strait Islander residential care service. This is a decrease of 2.9 per cent since 30 June 2006.

During the period 30 June 2006 to 30 June 2007, the number of Aboriginal and Torres Strait Islander children placed with an approved carer family or residential care service increased by nine per cent while the number of Aboriginal and Torres Strait Islander approved carer families decreased by nearly nine per cent.

4 *Overcoming Indigenous Disadvantage – Key Indicators 2005*

Table 1: Percentage of Aboriginal and Torres Strait Islander children living away from home with a kinship or Aboriginal and Torres Strait Islander carer, by departmental zone, Queensland, as at 30 June, 2003 to 2007

Zone	2003	2004	2005	2006	2007*
Brisbane North and Sunshine Coast	62.9	61.5	58.0	54.9	51.0
Brisbane South and Gold Coast	51.5	51.2	60.4	56.5	51.2
Central	62.8	58.7	62.8	67.6	65.9
Far Northern	79.2	76.5	76.3	80.6	71.7
Ipswich and Western	63.0	55.1	50.0	53.2	51.7
Logan and Brisbane West	67.8	66.0	70.8	63.8	58.9
Northern	71.2	67.1	70.8	75.3	70.9
Other (a)	45.5	37.8	50.0	43.9	..
Total	**67.2**	**63.4**	**64.8**	**64.1**	**61.2**

Source: Department of Child Safety

Notes:
** 2007 data are interim and will be revised in 2008.*
1. Refer to notes in Table 2.
(a) 'Other' includes children living interstate and children referred to the Child Safety After Hours Service Centre.

As at 30 June 2007, 14.2 per cent of all approved carer families were of Aboriginal and Torres Strait Islander descent. By comparison, 29.0 per cent of all children placed in home-based care (with approved carers) were Aboriginal and Torres Strait Islander children.

The number of Aboriginal and Torres Strait Islander children placed in home-based care is growing faster than the number of Aboriginal and Torres Strait Islander carers. Over the last five years, the growth rate of Aboriginal and Torres Strait Islander children placed in approved home-based care (110.6 per cent increase) has exceeded the growth rate of approved Aboriginal and Torres Strait Islander carer families (24.3 per cent increase).

The proportion of carer families that were of Aboriginal and Torres Strait Islander descent differed across carer approval types. As at 30 June 2007, Aboriginal and Torres Strait Islander carers comprised 22.2 per cent of approved kinship carers, 9.1 per cent of approved foster carers and 21.3 per cent of provisionally approved carers.
Current reporting against the principle refers to Aboriginal and/or Torres Strait Islander children who are placed with:

- Kin (Aboriginal and/or Torres Strait Islander or non-Indigenous),
- Other Aboriginal and/or Torres Strait Islander caregiver.
- Aboriginal and/or Torres Strait Islander Residential Care Service.

As such, it is outcomes focussed placement within one of the four priority placement categories rather than process focussed.

While the Department's approach to reporting is reinforced by the nationally agreed reporting definitions for child protection as established by the Australian Institute of Health and Welfare (AIHW), stating the proportion of Aboriginal and Torres Strait Islander children placed with family and/or kinship carers is a proxy measure which does not necessarily equate to compliance with the process in section 83 of the Child Protection Act 1999. Additionally, the proxy measure does not reflect placements where each step of the principle was considered, but the child was unable to be placed in one of the preferred placement options specified in the legislated placement hierarchy.

With the introduction of the Integrated Client Management System (ICMS) the Department is now in a position to be able to report on each placement of the hierarchy (as well as whether a recognised entity was given an opportunity to participate).

The following table indicates how many Aboriginal and Torres Strait Islander children have been placed in each placement type.

Table 2: Aboriginal and Torres Strait Islander children living away from home, by Indigenous status and relationship of carer, Queensland, as at 30 June, 2003 to 2007

Type of placement	2003	2004	2005	2006	2007*
Number of Aboriginal or Torres Strait Islander children					
Placed with kinship or Aboriginal or Torres Strait Islander **carer**					
Aboriginal or Torres Strait Islander relative/kin	323	326	343	405	463
Non-Indigenous relative/kin	19	42	115	197	186
Other Aboriginal or Torres Strait Islander caregiver	198	236	366	400	403
Indigenous residential care services	6	3	2	9	3
Total placed with kinship or Aboriginal or Torres Strait Islander carers	**546**	**607**	**826**	**1,011**	**1,055**
Not placed with kinship or Aboriginal or Torres Strait Islander **carers**					
Other non-Indigenous caregivers (a)	265	351	444	538	643
In non-Indigenous residential care	2	–	5	28	26
Total not placed with kinship or Aboriginal or Torres Strait Islander carers	267	351	449	566	669
Total Aboriginal or Torres Strait Islander children in out-of-home care	813	958	1,275	1,577	1,724
As a proportion of all Aboriginal or Torres Strait Islander children in out-of-home care					
Placed with kinship or Aboriginal or Torres Strait Islander **carer**					
Aboriginal or Torres Strait Islander relative/kin	39.7	34	26.9	25.7	26.9
Non-Indigenous relative/kin	2.3	4.4	9	12.5	10.8
Other Aboriginal or Torres Strait Islander caregiver	24.4	24.6	28.7	25.4	23.4
Aboriginal or Torres Strait Islander residential care services	0.7	0.3	0.2	0.6	0.2
Total placed with kinship or Aboriginal and Torres Strait Islander carers	67.2	63.4	64.8	64.1	61.2
Not placed with kinship or Aboriginal or Torres Strait Islander **carers**					
Other non-Indigenous caregivers (a)	32.6	36.6	34.8	34.1	37.3
In non-Indigenous residential care	0.2	–	0.4	1.8	1.5
Total not placed with kinship or Aboriginal or Torres Strait Islander carers	32.8	36.6	35.2	35.9	38.8
Total Aboriginal or Torres Strait Islander **children in out-of-home care**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**

Source: Department of Child Safety

Notes:

* *2007 data are interim and will be revised in 2008.*

1. *Counts all Aboriginal and Torres Strait Islander children living away from home in the following primary placement types (approved foster carers, provisionally approved carers, approved kinship carers and residential care services) as at 30 June.*
2. *From 2006 onward, figures include children placed with unfunded kinship carers in recognition that from 31 May 2006, all carers were brought under the same regulatory framework as foster carers, with a six month transition process finalised by 30 November 2006.*

(a) Includes non-Indigenous carers and those whose Indigenous status is unknown or not stated.

Question

4. How should the department report, using administrative data (the data collected on a regular basis by the department), on its compliance with the Aboriginal and Torres Strait Islander Child Placement Principle?

Queensland's Legislation

The *Child Protection Act 1999* provides the legal framework for the Department's interactions with Aboriginal and Torres Strait Islander children and families.

The overarching principle for the administration of the *Child Protection Act 1999* (the Act) is stated in section 5(1). That is, *"This act is to be administered under the principle that the welfare and best interests of a child are paramount".*

Section 5(2) of the Act sets out a range of further principles under which the Act must be administered:

a) *every child has a right to protection from harm;*
b) *families have the primary responsibility for the upbringing, protection and development of their children;*
c) *the preferred way for ensuring a child's wellbeing is through the support of the child's family;*
d) *powers conferred under this Act should be exercised in a way that is open, fair and respects the rights of people affected by their exercise, and, in particular, in a way that ensures –*
(i) actions taken, while in the best interests of the child, maintain family relationships and are supportive of individual rights and ethnic, religious and cultural identity or values; and
(ii)the views of the child and the child's family are considered; and
(iii)the child and the child's parents have the opportunity to take part in making decisions affecting their lives;
e) *if a child does not have a parent able and willing to give the child ongoing protection, the State has a responsibility to protect the child, but in protecting the child the State must not take action that is unwarranted in the circumstances;*
f) *if a child is removed from the child's family –*
(i) the aim of authorised officers' working with the child and the child's family is to safely return the child to the family if possible; and
(ii)the child's need to maintain family and social contacts, and ethnic and cultural identity, must be taken into account; and
(iii) in deciding in whose care the child should be placed, the chief executive must give proper considering to placing the child, as a first option, with kin;
g) *a child should be kept informed of matters affecting him or her in a way and to an extent that is appropriate, having regard to the child's age and ability to understand;*
h) *if a child is able to form and express views about his or her care, the views must be given consideration, taking into account the child's age or ability to understand;*
i) *if a child does not have a parent able and willing to give the child ongoing protection, the child has a right to long-term alternative care.*

These principles for administration of the Act are to be considered in all decisions in the case management of a child or young person including the application of the Child Placement Principle. However, the principles must always be subordinate to the paramount principle, that is, the welfare and best interests of the child. A child should never be placed with a carer in one of the hierarchy options in the Child Placement Principle if it is to the detriment of the welfare and best interests of the child.

Section 6. *Provisions about Aboriginal and Torres Strait Islander children*, reflects the importance of Aboriginal and Torres Strait Islander participation in child protection decision-making to ensure:

- Aboriginal and Torres Strait Islander children receive culturally appropriate and inclusive child protection services
- the Department delivers these services in a collaborative manner with Aboriginal and Torres Strait Islander organisations
- effective efforts are made to address the over-representation of Aboriginal and Torres Strait Islander children in the child protection system.

This section of the Act requires the Department to work with a recognised Aboriginal and Torres Strait Islander entity when making all decisions about an Aboriginal or Torres Strait Islander child. This requires either providing the recognised entity with the opportunity to participate in all significant decisions, or consulting with the recognised entity about all other decisions.

There are currently, 28 grant funded Aboriginal and Torres Strait Islander organisations performing as recognised entities, providing cultural advice, information and support to the Department's 48 child safety service centres. During 2007-08 the Queensland Government will allocate more than $16 million to Aboriginal and Torres Strait Islander organisations to provide recognised entity services.

A significant decision is defined in section 6(6) as a decision about an Aboriginal or Torres Strait Islander child that is likely to have a significant impact on the child's life. Significant decisions include decisions made at critical points across the child protection continuum including at intake, investigation and assessment, Suspected Child Abuse Network (SCAN) system, case planning, court, placement, and matters of concern.

Under section 6(2) the Department must consult with the recognised entity on any decision other than a significant decision before the decision is made.

Section 6(4) (b) outlines the general principle that an Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community where it is in the child's best interest.

Section 6(5) requires consultations, negotiations, family group meetings and other proceedings involving an Aboriginal or Torres Strait Islander person to be conducted in a way and place appropriate to Aboriginal Customary Law or 'Ailan Kastom'.

While this does occur through arranged family group meetings, the question needs to be asked as to whether other models are more appropriate in particular communities or circumstances.

Section 7(1)(f) provides for the Chief Executive's functions in relation to helping Aboriginal and Torres Strait Islander communities to establish programs for preventing or reducing incidences of harm to children in the communities. To carry out this function the department funds family intervention support (FIS) services and is implementing a program of 'on community residential services" to keep children safe in their own community while their longer-term needs are being assessed.

Section 11 describes the definition of 'parent', upholding that an Aboriginal and Torres Strait Island parent is someone who is regarded as such in a customary law sense.

It is important staff involved in placement decisions understand Kinship rulings and customary law requirements for the particular communities to which the child belongs.

Sections 51 A to 51 Y cover case planning and family group meetings. The Child Safety Practice Manual contains guidelines for the development a case plan for a child who is assessed as being in need of protection and who is subject to ongoing intervention.

Section 51 D1 requires case planning to be carried out in a way that encourages and facilitates the participation of Aboriginal and Torres Strait Islander agencies and persons.

Again, as with section 6(5), the question will need to be asked as to whether other models are more culturally appropriate or practical in particular communities or circumstances.

Section 51 L1 requires reasonable opportunity to be given for attendance and participation in case planning meetings by a recognised entity where the child is an Aboriginal or Torres Strait Islander person.

Section 51 L2 allows for the child or parent of the child to have someone of their choice to attend and participate in the meeting for the purpose of giving help or support to the child or parent. This could be a FIS worker or another Aboriginal or Torres Strait Islander support person for the child or parent.

Section 51W (1) (f) requires that reasonable opportunity must be given for the recognised entity for the child to participate in the review and preparation of a revised case plan

The Child Safety Practice Manual requires that all people who are significant to the child must be given a reasonable opportunity to participate in, and attend the family group meeting which is convened to develop a high quality and holistic case plan for the child. The manual also states that the case plan should reflect and combine the knowledge, strengths, resources and supports of the child's family and support network, with the professional expertise and resources of the department and other service providers.

Sections 51D and 51M of the *Child Protection Act 1999*, requires that participants be sufficiently prepared and informed for the meeting so that they can fully participate in the development of the plan.

Section 83 (1) to (7) gives effect to the principle that placements for Aboriginal and Torres Strait Islander children must be culturally appropriate and maintain the child's cultural identity. This section gives a legislative basis to the intent of the Aboriginal and Torres Strait Islander Child Placement Principle and, in particular, the hierarchy of placement preferences and the Department's obligation to engage a recognised entity in a decision about where, and with whom, a child will live.

Section 83 (4) states: *'In making a decision about the person in whose care the child should be placed, the chief executive must give proper consideration to placing the child, in order of priority, with –*

(a) a member of the child's family; or
(b) a member of the child's community or language group; or
(c) another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group; or
(d) another Aboriginal person or Torres Strait Islander'.

Sub-section 83 (7) provides for the situation where an Aboriginal or Torres Strait Islander child or young person cannot be placed in accordance with the hierarchy and is placed with a non-Indigenous family member or other person, as follows:

Before placing the child in the care of a family member or other person who is not an Aboriginal person or Torres Strait Islander, the chief executive must give proper consideration to whether the person is committed to:

(a) facilitating contact between the child and the child's parents and other family members, subject to any limitations on the contact under the Child Protection Act 1999, section 87;
(b) helping the child to maintain contact with the child's community or language group; and
(c) helping the child maintain a connection with the child's Aboriginal or Torres Strait Islander culture; and
(d) preserving and enhancing the child's sense of Aboriginal or Torres Strait Islander identity.

Section 83 also requires that a recognised entity be given the opportunity to participate in the placement decision.

Section 88 requires the chief executive to provide contact between an Aboriginal or Torres Strait Islander child and the child's community or language group if the child is an Aboriginal or Torres Strait Islander child. It also requires the chief executive to provide opportunity for contact, as often as is appropriate in the circumstances, between the child and appropriate members of the child's community or language group.

Section 246I(1) requires the chief executive to keep a list of entities with whom to consult about issues relating to the protection and care of Aboriginal or Torres Strait Islander children.

Criteria for selection of a recognised entity are set out in section 246(I) (2). The chief executive is also required to make the list of recognised entities available for public inspection.

Questions

5. Does current legislation accurately guide the process of placement in accordance with the Aboriginal and Torres Strait Islander child placement principle?

6. If not, what additional guidance required to ensure the process of placement is more in line with the underlying purposes of the Aboriginal and Torres Strait Islander Child Placement Principle?

Best Interests of Aboriginal and Torres Strait Islander children and young people

The importance of protecting a child's Aboriginal or Torres Strait Islander cultural identity, as well as maintaining the child's extended family and community relationships, is currently taken into account in determining the 'best interests of a child'.

A placement with a non-Indigenous carer who is supportive of contact with the Aboriginal or Torres Strait Islander community may be an appropriate option in some cases. This option must meet the placement principle that:

- other placement options within the hierarchy have been exhausted or found not to be in the best interests of the child;
- The carer is committed to maintaining the child's connection with the child's culture and the placement is in the child's best interests.

In the family law context, assessments of the best interests of Aboriginal and Torres Strait Islander children have in the past focused on material comforts and benefits. This often meant that Aboriginal and Torres Strait Islander children would be placed with non-Indigenous people if it were considered that the child would be better provided for by non-Indigenous people.[5]

The Victorian Aboriginal Child Care Agency argues that if a child is both well-loved and well-cared for, the parents cannot justly be criticised for their poverty and non-material outlook.

The New South Wales Law Reform Commission indicates there have been a gradual rejection of material benefits and an acceptance of cultural identity and connection as a primary consideration in determining the "best interests of the child" in family law.

As required by the *Child Protection Act 1999*, the 'best interests' of a child is considered in a culturally appropriate way by engaging Aboriginal and Torres Strait Islander people in the decision-making process. The Department of Child Safety funds recognised entities to perform the consultation role when determining placement of an Aboriginal or Torres Strait Islander child.

Recognised entities are Aboriginal and Torres Strait Islander organisations or individuals mandated by their communities, and approved and funded by the Department of Child Safety, to provide cultural and family advice in Aboriginal and Torres Strait Islander child protection matters.

Question

7. What considerations should be taken into account when determining the best interests of an Aboriginal and/or Torres Strait Islander Child?

5 *New South Wales Law Reform Commission – Research Report 7 (1997)*

Child Placement Principle Compliance Assessment Tool – Five-Step Process

The Commission for Children and Young People and Child Guardian has developed a five-step process to assist officers of the Department of Child Safety to fully comply with section 83 of the *Child Protection Act 1999*. The steps are as follows:

Step 1 – Identify the child is Aboriginal or Torres Strait Islander under section 83(1);

Step 2 – Involvement of a recognised entity, section 83(2) and (3);

Step 3 – Hierarchy of placement options, section 83(4) and (6);

Step 4 – Proper considerations of placement options, section 83(5);

Step 5 – Assessment of non-Indigenous carers' commitment, section 83(7).

Attachment 5 provides the Commission's flowchart of the five steps. This model is further considered below.

Step 1 - Identification of Aboriginal and Torres Strait Islander Children and Young People

Current government protocols indicate only Aboriginal and Torres Strait Islander people can determine whether they are or are not of Aboriginal and/or Torres Strait Island descent.[6]

The definition and identification of Aboriginality is sometimes difficult and complex. At other times it is an easy and simple process.

The definition of an Aboriginal or Torres Strait Islander person, according to section 51(26) of the *High Court of Australia Act 1983* is:

'An Aboriginal or Torres Strait Islander person is a person of Aboriginal or Torres Strait Islander descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives'.

The Child Safety Practice Manual states that the case plan for a child must include actions and arrangements that maintain and support the child's cultural identity consistent with the statement of standards, the charter of rights and the principles of the *Child Protection Act 1999*. This applies to an Aboriginal or Torres Strait Islander child or a child from another cultural community.

6 *Protocols for Consultation and Negotiation with Aboriginal People – Department of Communities*

The Department must ensure the child's cultural identity and relationships are maintained and provide opportunity for contact, as often as is appropriate in the circumstances, between the child and appropriate members of the child's community or language group. This is particularly important when the child is placed with a non-Aboriginal or Torres Strait Islander person or with another Aboriginal or Torres Strait Islander not from their clan/tribe or language group (*Child Protection Act 1999*, section 83).

Section 1.3 of the Child Safety Practice Manual - Gathering information from the notifier, is specific about requirements in the identification process. It states:

"The Department's statutory role requires the collection and storage of large amounts of personal information. It is vital that every effort is made to gather accurate information from the notifier about the subject child, other relevant persons, the concerns and the contextual situation for the child. It is important to gather and accurately record information such as given names, surnames, aliases, nicknames, ages and dates of birth, gender, cultural identity, addresses and relationships, to ensure departmental records are reliable. In particular, accurate details of a person's indigenous status must be gathered and recorded".

An Aboriginal and Torres Strait Islander identification package (Attachment 2) was introduced by the Performance Measurement and Reporting Unit, Department of Child Safety, in May 2005. This package provides assistance gathering and recording identification information.

The objectives of the identification package are to:

- raise awareness of the importance of recording the Indigenous status of clients accurately and consistently
- provide or enhance staff skills in asking the Indigenous status question in its correct format
- improve the accuracy with which Indigenous status is recorded.

To ensure the information is accurate, the following question must be asked of all clients - **Are you of Aboriginal or Torres Strait Islander descent?**

Questions

8. Does the Aboriginal and Torres Strait Islander identification package provide support and assist staff to establish a child's cultural identity?
9. What, if any, other Aboriginal and Torres Strait Islander specific questions should be asked, and recorded, as part of the identification process?
10. What is the most effective way of communicating the Aboriginal and Torres Strait Islander identification process to staff?
11. What departmental support for staff would ensure all departmental 'first contact' personnel enquire about the preferred cultural identity of clients?

Step 2 – Involvement of a recognised entity

Section 83(2) requires a recognised entity for the child to be given an opportunity to participate in the placement decision relating to the Aboriginal or Torres Strait Islander child. This participation should contribute specialised cultural and family knowledge to decision-making, such as where and with whom the child will live, or any change of placement.

Role of recognised entities

The role of recognised entities, for Aboriginal and Torres Strait Islander children, is to:

- actively participate in significant decisions
- consult in regard to any other decisions made by the Department
- provide cultural advice about the child and family.

The recognised entity should be involved in all steps in the child protection process including:

- at intake
- during investigation and assessment
- at Suspected Child Abuse and Neglect (SCAN) meetings
- during the court support process
- for case planning
- placement decisions.

Recognised entities are funded to provide information to families during each of these events of the statutory system.

The funded role of recognised entities does not include provision of culturally appropriate family support services to children and family, outside the scope of the child protection process. Prevention, early intervention and family support programs are activities that have historically been provided by Aboriginal and Torres Strait Islander Child Care Agencies to prevent the need to enter the child protection system. Some agencies are also funded to provide 'Family Intervention Services'. However, these support services are not part of their recognised entity role.

The scope of this paper encompasses the recognised entity participation in the protection for children who have been harmed or are at risk of harm. Culturally appropriate prevention, early intervention and family support programs are not included in the scope and are not considered in this paper.

Service Delivery Protocols

The service delivery protocol agreement (the protocol) sets out the administrative and operational arrangements between child safety service centres and recognised entities.

The protocol assists both parties to have a clear understanding of their roles and responsibilities so that they can deliver responsive and quality services to Aboriginal and Torres Strait Islander children and young people involved in the child protection system by:

- promoting the best interests of the child
- delivering effective protection and care for Aboriginal and Torres Strait Islander children and young people who have been harmed or are at risk of harm
- ensuring adherence to the *Aboriginal and Torres Strait Islander Child Placement Principle* (*Child Protection Act 1999*) by **both** parties

- providing an opportunity to contribute to the development of cultural plans for Aboriginal and Torres Strait Islander children and young people subject to ongoing intervention to ensure they maintain contact with family (where this has been deemed to be safe), community and culture to preserve and enhance their sense of Aboriginal and/or Torres Strait Islander identity
- highlighting the importance of recognised entities playing a major role in the contribution of cultural information subject to community approval
- establishing and maintaining positive relationships with the child's family and community and commitment to strengthening these relationships through active engagement and consultation
- identifying key points of contact between all parties to ensure service delivery to Aboriginal and Torres Strait Islander children, young people, their family(s) and/or carer(s) is culturally appropriate, accessible and responsive to their individual needs
- meeting statutory requirements of the *Child Protection Act 1999*.

Separate Service Delivery Protocol Agreements have been developed by zones to reflect local and operational needs.

Other models for obtaining culture and family knowledge

The Department is currently considering a service model for Indigenous Kinship Care Services to address the legislative requirements, with the objective of improving the Department's ability to find suitable placements or establish information that will lead to the placement.

Concentration will be in establishing geno-grams to break down the kinship system information of each child to ensure all possible placement options are discovered. This information will assist the recognised entities in their processes.

Question

12. Should other models be considered as a way of obtaining information about a particular child's family and community, and potential carers?

Section 83(3) of the *Child Protection Act 1999*, permits a child being placed in urgent circumstances without participation of the recognised entity. It also requires consultation with a recognised entity for the child 'as soon as practicable' after making the decision. However, the provisions provide no guidance about:

1. the acceptable time frame for 'as soon as practicable; or
2. the circumstances which would permit the use of the 'urgent' provision.

For example, a child may be found abandoned on a Friday night and the Child Safety After Hours Service Centre needs to make urgent arrangements for a safe placement so the child's need for shelter, food and warmth can be met over the weekend, before engagement of the recognised entity can occur.

Questions

13. What circumstances may be considered 'urgent' so as to make it permissible not to involve the recognised entity in the placement decision?

14. What is an acceptable time frame for consulting with the recognised entity, as soon as practicably after an urgent decision has been made?

The provisions also do not stipulate how the recognised entity is engaged in relation to an urgent placement decision after it has been made, eg:

- what outcome is to be expected from the consultation; or
- what circumstances would warrant a review of decisions based on the views of the recognised entity for the child.

For instance, for primary care and safety reasons an urgent placement may have been to a non-Indigenous carer outside the community in which the child lives. On consultation with the recognised entity, information is obtained that there is a suitable extended family member who is both known to the child and lives near to the location of the child's community.

These circumstances are of course varying in nature and make-up. There is no typical scenario and each occasion has to be judged according to existing circumstances and the availability of suitable placements.

Questions

15. What information and advice should be sought from, and provided by, the recognised entity where consultation occurs after the placement decision?

16. What are the expected outcomes from the consultation process with recognised entities?

17. In what circumstances should an urgent decision be reviewed because of the consultation with the recognised entity?

Diversity across Queensland

In Queensland, there are approximately 146,000 Aboriginal and Torres Strait Islander people (ABS 2006). Approximately 19% (27,446) live in what is classed as 'Discreet Communities'[7]. There are 124 of these communities within Queensland. Eighty-seven have populations under 100 persons and are listed in many instances as outstations. These are localities of small family/language groups, living on land where they have a cultural responsibility. They are located in outer regional, rural and remote areas of Queensland. Around 50% are in areas which are determined as 'very remote'.

7 *The ABS defines a discrete community as geographical locations that are bounded by physical or cadastral boundaries, and inhabited or intended to be inhabited predominately by Indigenous people, with housing and infrastructure that is either owned or managed on a community basis.*

The main concentration of population and infrastructure exists in the 19 discreet communities named in the Queensland Government's Meeting Challenges, Making Choices (MCMC) Strategy – Aurukun, Bamaga, Cherbourg, Doomadgee, Hope Vale, Injinoo, Kowanyama, Lockhart River, Mapoon, Mornington Island, Napranum, New Mapoon, Palm Island, Pormpuraaw, Umagico, Seisa, Woorabinda, Wujal Wujal and Yarrabah.

Community Profiles' that contain comprehensive information about local Aboriginal and Torres Strait Islander groups are not made readily available to recognised entities or departmental staff.

Information has already been obtained by other departments and negotiation will need to occur to establish a collaborative approach with those departments to determine the transfer of gained knowledge to the profiles. It is intended that a proforma document will be developed to ensure a framework for zoned staff is available to utilise when recording changing information on a regular basis.

Community profiles could be developed in conjunction with the Community and Personal Histories Section of the Department of Communities, Queensland State Archives, National Native Title Tribunal and the recently formed First Nation Peoples Cultural Heritage Aboriginal Corporation, made up of key personnel such as anthropologists of Aboriginal descent. Partnerships with recognised entities and the Queensland Aboriginal and Torres Strait Islander Child Protection Partnership would also be necessary as well as key stakeholders from Aboriginal and Torres Strait Islander communities.

The local expertise held by the recognised entity may include knowledge and information sharing reaching far into the social fabric of a community. However, in many places, especially where former missions and reserves were established, mixed clan groups exist.

The quality of advice pertaining to the particular child and their place in family and community structures will depend on the recognised entity's relationship with, and authority from, the child's family and clan group.

In Aboriginal and Torres Strait families, kin may be located thousands of kilometres away and in areas serviced by other Child Safety Service Centres.

There are many reasons for this including the way families have developed since their removal from their traditional country some generations ago or simply to obtain employment in areas where it is less restrictive.

For child protection practice this means the local recognised entity may not be accepted by the child's family or community as able to provide cultural advice for the child.

Questions

18. How can information sharing between recognised entities be enhanced and improved when geographical location and community or clan group location do not coincide?

19. Would the introduction of community profiles assist with information sharing and child protection practice?

Step 3 - Hierarchy of Placement Options

The Hierarchy Options

Section 83(4) of the *Child Protection Act 1999* requires proper consideration to be given when placing the child, in order of priority, with –

1. a member of the child's family (Hierarchy option 1);
2. a member of the child's community or language group (Hierarchy option 2);
3. another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group (Hierarchy option 3); or
4. another Aboriginal person or Torres Strait Islander (Hierarchy option 4).

However, when there is no appropriate person available (as above) section 83(6) requires proper consideration to be given in placing the child, in order of priority, with-

- a person who lives near the child's family; or
- a person who lives near the child's community or language group.

The Commission's five step compliance tool (attachment 5) indicates six checkpoints of compliance:

1. Were any family members identified as placement options?
2. Were any community/language group members identified as placement options?
3. Was any compatible Aboriginal or Torres Strait Islander carers identified as placement options?
4. Was any Aboriginal or Torres Strait Islander carers identified as placement options?
5. Were any non-Indigenous carers living near the child's family or community/language group members identified as placement options?
6. Were other placements considered?

Placement with family or community member (Hierarchy option 1 or 2 respectively)

To be able to identify and consider placement options with a family or community member departmental and recognised entity staff need coherent guidelines to determine and explain the types of relationships existing in Aboriginal kinship rules and Torres Strait Islander traditional adoption under Ailan Kastom (Island Custom).

Such guidelines should include an explanation for the importance of departmental officers collecting and recording an Aboriginal or Torres Strait Islander child's family and community structure to ensure appropriate and effective service delivery to Aboriginal and Torres Strait Islander children.

Detailed information about a child's family genealogy and relevant or significant community members needs to be collected and recorded on the Integrated Client Management System (ICMS).

To be able to consider hierarchy options 1 or 2 for a child, it will be necessary to collect and record personal information about each family and community member the child relates. For example:

- relationships of family members and members of the child's community or language group
- name of clan/language group, or island or community group the child belongs to, both on a geographical and customary law basis
- names of family members or significant persons to maintain and support the child's cultural identity, and their contact details.

The question is how much information is appropriate to collect and who is the appropriate holder of detailed personal information about family and community members. In considering this it is important to bear in mind the restriction in that of resources available to the protective role of the Department.

Questions

20. How much personal information, and about whom, should be collected prior to assessing a placement?

21. How should collecting and recording of such information be enabled so it is flexible enough to allow for variances across Aboriginal and Torres Strait Islander cultures?

22. Who is appropriately the holder of detailed, personal information about the child's family and community relationships? Is it perhaps a particular department, a recognised entity or someone else?

23. What detailed personal information should be recorded by the Department of Child Safety about an Aboriginal or Torres Strait Islander child's family and community members?

Aboriginal and Torres Strait Islander communities can be complex to persons who are unfamiliar with the way that language groups are broken down into individual families. Basic understanding of family and community structure is necessary to distinguish between a placement option which meets hierarchy option one and another that meets option two.

There are various anthropological models where details can be examined to determine relationships within Aboriginal communities and Torres Strait Islands. Many departments have compiled community profiles and locality briefs across the state which includes information of family groups and their major dialects. Attachment 3 is an example of an Aboriginal community (Wadeye) from the Northern Territory; where language groups have been broken down to examine the relationships of families within them.

Similarly, Torres Strait Islander families belong to particular language groups. Attachment 4 is an example of the number of major dialects spoken in the Torres Strait.

Questions

24. What are suitable tools for distinguishing between family and community members (Hierarchy options 1 and 2)?

25. To what degree should the department rely on recognised entities to provide advice about a child's position in the community including advice about distinguishing family members from community members?

26. How much personal information should be collected at the outset? For example, to what extent should the Department collect personal information about a child's family and community members if a suitable placement with family has already been identified?

When identifying and considering placement options, it may be useful to consider if individuals can provide other types of support, while the child is in out-of-home care. When collecting personal information, it may be useful to also collect information about:

- care/support not appropriate
- willing to provide support when they can
- would like to provide support but will experience difficulties
- cannot provide support
- is prepared to provide support
- is prepared to be considered as a placement option.

Consideration could also be given to whether other abilities to produce detail should be included, eg. ability to provide transport or respite care.

Questions

27. Will collection of this information at the outset be useful for case managing the intervention? If so, how far reaching should such collection be?

State-wide access to kinship / extended family information

Achieving placement of Aboriginal and/or Torres Strait Islander children with their family/kin where appropriate is complex. Many factors inhibit a smooth implementation including:

- lack of knowledge of Molety (Skin) relationships, in some Aboriginal families
- factors that formulate extended family, including 'skin'-based marriages, Ailan Kastom Adoptions, etc, including a lack of knowledge of these factors within some Aboriginal and Torres Strait Islander families
- breakdown of family structured knowledge in many geographical areas.

Questions

28. When making the decision to place a child, would community, language-group, or clan-group profiles be helpful?

29. If profiles would be helpful, how should they be developed and what information should they contain?

30. How should the Department work with community and government agencies to build community knowledge and capacity to give advice about children's family and community structures?

Placement with compatible carer (hierarchy option 3)

Section 83(4)(c) of the *Child Protection Act 1999* requires that when making a decision about the person in whose care the child should be placed, proper consideration to placing the child should be had with – *"another Aboriginal person or Torres Strait Islander who is compatible with the child's community or language group"*. Unfortunately, the concept of 'compatibility' is not clearly defined.

Compatibility with a child outside the child's family, clan/language group or community can depend on a range of factors, including histories of inter-marriages and peaceful co-existence. However, it is not an easy concept to define, and will depend on local circumstances and culturally competent advice about these local circumstances.

Questions

31. How should the Department define the concept of 'compatible' carers?

32. Who should the Department consult to assess an Aboriginal and/or Torres Strait Islander carer's compatibility with the child?

33. What is the role of the recognised entity in this decision?

Placement with another Aboriginal or Torres Strait Islander person (hierarchy option 4)

When hierarchy options 1, 2, or 3 are unable to be met, section 83(4) (d) provides for 'another Aboriginal or Torres Strait Islander' as a further option.

There is no legislative guidance as to how this section should be applied. The option appears to be based on an assumption that all Aboriginal and Torres Strait Islander people would have the ability through a higher level of cultural competence to ensure that a child placed with them would be kept in close contact with their family, community and culture. It is not always the case, however, that an Aboriginal or Torres Strait Islander carer from one language or clan group is able to provide culturally competent care to a child from another language or clan group.

Number of Aboriginal and Torres Strait Islander Carers

Additionally, there is a documented shortage of Aboriginal and Torres Strait Islander carers available. When exploring the reasons for this shortage, (particularly in the remotely located communities), the small Aboriginal and Torres Strait Islander adult populations from which to draw, pre-existing care responsibilities, the ageing of the current carer pool and the risk of burn-out of existing carers are all highlighted as factors.

Assessment criteria can exclude Aboriginal and Torres Strait Islander adults with a past criminal history or deter those who consider their criminal history alone may be a barrier, regardless of whether its assessment would find them unsuitable to care for a child. In this regard, the Commission's practices relating to the blue-card have a role to play in successful strategies for recruitment of carers because obtaining a blue-card is a pre-condition to being approved as a carer.

Question

34. How do we overcome the barriers for Aboriginal and Torres Strait Islander people to become carers?

Placement with carer outside the hierarchy

Section 83(6) of the *Child Protection Act 1999* states: "If the chief executive decides there is no appropriate person mentioned in subsection (4)(a) to (d) in whose care the child may be placed, the chief executive must give proper consideration to placing the child, in order of priority, with –

a. a person who lives near the child's family; or
b. a person who lives near the child's community or language group.

The provision does not define the concept of 'near'.

The concept of 'community' also requires consideration. A child may be from a particular language group and particular country but live far away from other members of the language group where the immediate family has moved for employment reasons. Is the child's community then the language group or the new community in which the child now lives? Again, the paramount decision must be in ensuring the best interests of the child are met.

Question

35. How should the concept of 'near" be interpreted by the Department?

36. Based on this interpretation, is 'near' always to be implemented in a geographical sense?

37. How should the child's community be defined and identified?

See also, Step 5 – Assessment of non-Indigenous carers' commitment.

Step 4 – Proper consideration of placement options

Under section 83 of the *Child Protection Act 1999*, 'proper consideration' of placement options involves assessing the potential carer's ability to retain the child's relationships with parents, siblings and other people of significance as well as considering the views of the recognised entity.

Views of the recognised entity

In accordance with the *Child Protection Act 1999*, the Department must consult with the recognised entity on all major decisions made in relation to an Aboriginal and Torres Strait Islander child and the recognised entity must be involved in other decisions relating to an Aboriginal and Torres Strait Islander child. To give proper consideration to placement options the department must consider the views of the recognised entity.

The Integrated Client Management System (ICMS) requires completion of a field to indicate whether or not a recognised entity has in fact, been consulted.

Currently, this consultation has no uniform standards or requirements and advice from the recognised entity may be received in both oral and written formats. Oral information is obtained by phone and in person. Written formats include letters, locally developed information field forms and email responses to requests for recognised entity's views.

Question

38. How should the views of the recognised entity be documented and recorded?

Optimal retention of relationships

The provision requires proper consideration to ensure the decision provides for the optimal retention of the child's relationships with parents, siblings and other people of significance under Aboriginal tradition or Ailan Kastom.

In its original form the Aboriginal and Torres Strait Islander Child Placement Principle outlined that: *"Placements must enable the best possible retention of the child's relationship with parents, siblings, extended family, community and culture, in a manner which best serves the welfare and interests of the child. Traditional, cultural obligations such as initiation or funeral obligations may apply to some children in care. Therefore, placements must account for children being able to access these cultural obligations. Advice from the community must be sought".*

To consider this aspect, the decision makers will need information about the child's parents, siblings and people of significance, as well as information about the existing relationship between the child and those people.

Question

39. What types of information should be collected about the child's relationships with parents, siblings and people of significance?

Currently, the Department of Child Safety collects such information in the Cultural Support Plan.

These plans, with specific private information added on a confidential basis, can accentuate the child's background and family information. This increases the potential for more comprehensive assessments providing more informed and quality information to assist placement decisions.

These case plans must include actions and arrangements that maintain and support the child's cultural identity. They need to be consistent with the statement of standards, the charter of rights and the principles of the *Child Protection Act 1999*.

A Child Safety Officer must ensure the child's cultural identity and relationships are maintained and provide opportunity for contact, as often as is appropriate in the circumstances, between the child and appropriate members of the child's community or language group (*Child Protection Act 1999*, section 86). This is particularly important when the child is placed with a non-Aboriginal or Torres Strait Islander person or with another Aboriginal or Torres Strait Islander not from their clan or language group (*Child Protection Act 1999*, section 83).

Strategies for maintaining and supporting the child's cultural identity and relationships are discussed with the child's family at the family group meeting and incorporated into the child's cultural support plan.

The cultural plan for an Aboriginal and Torres Strait Islander child must include:

- the name of the clan/language group/ethnic or cultural group/Island or community group to which the child belongs
- arrangements for contact between the child and the child's parents, guardians or carers
- arrangements for contact between the child and other family members and significant persons
- activities and arrangements for maintaining and supporting the child's cultural identity
- the support required by the carers to maintain and support these arrangements and activities
- the names of family members or significant persons to maintain and support the child's cultural identity and their contact details.

The Department is in the process of gathering a number of example plans from across the state, as well as models used in other states and territories, to inform the development of a template to compliment the current version of the Cultural Support Plan on the Integrated Client Management System.

Questions

40. How useful is the Cultural Support Plan as a vehicle for collecting and storing relationships information for consideration for a placement option?

41. What standards and processes should be adopted on a state-wide basis for development of Cultural Support Plans?

42. What should the roles of recognised entities and departmental staff be?

43. What additional tools or resources would be helpful?

Step 5 – Assessment of non-Indigenous carers' commitment

If a child is placed with a non-Indigenous carer, consideration must be given to the carer's commitment to maintaining the child's cultural identity.

Section 83 of the *Child Protection Act 1999* requires the Department to assess the carer's commitment to:

- facilitate contact between the child and the child's family
- helping to maintain contact with the child's community and language group
- helping to maintain connection with culture
- preserving and enhancing the child's sense of culture.

The child's cultural support plan will play a role in ensuring the child's cultural needs are met.

Questions

44. How should the Department assess a non-Indigenous carer's commitment?

45. What criteria would be appropriate for assessing commitment?

46. How should the assessment be documented and recorded?

47. How can the Department support non-Indigenous carers to fulfil their commitment?

Reference List

Aboriginal and Torres Strait Islander Child Care Principle.

Pathways to Achieving Adherence to the Aboriginal and Torres Strait Islander Child Placement Principle in Queensland - The Queensland Aboriginal and Torres Strait Islander Child Protection Partnerships, September 2007.

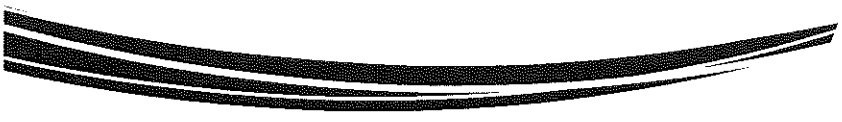
Australian Bureau of Statistics population count – Australian Bureau of Statistics, 2006. www.abs.gov.au

"Bringing them Home" report – Human Rights and Equal Opportunity Commission, 1997. www.humanrights.gov.au

Comments on the Aboriginal and Torres Strait Islander Child Placement Principle Discussion paper can be sent or emailed to:

Child Placement Principle Discussion Paper
Policy and Programs Division
Strategic Policy and Research Branch
GPO Box 806
Brisbane QLD 4001

Email to cppdiscussionpaper@childsafety.qld.gov.au or Karla.Brown@childsafety.qld.gov.au



Attachment 1

Gathering information

The following is an extract from Section 1.3 – Gathering information from the notifier – Child Safety Practice Manual.

The Department's statutory role requires the collection and storage of large amounts of personal information. It is vital that every effort is made to gather accurate information from the notifier about the subject child, other relevant persons, the concerns and the contextual situation for the child. It is important to gather and accurately record information such as given names, surnames, aliases, nicknames, ages and dates of birth, gender, cultural identity, addresses and relationships, to ensure departmental records are reliable. In particular, accurate details of a person's Indigenous status must be gathered and recorded.

Information gathering guide

The following key areas are to be explored with the notifier when gathering information at intake.

Identifying information about child, family and other household members

- Details of subject children: names, date of birth/age, aliases and gender (for an unborn child, record the estimated date of delivery).
- Cultural identity: child's cultural identity, including how they define themselves culturally.
- The Child Safety Officer is responsible for collecting accurate details of the cultural identity of subject children and their family members, and must ask specific questions to gather this information.
- In particular, the Child Safety Officer (CSO) must be able to record whether a person is Aboriginal or Torres Strait Islander, both or neither, in order for the Department to meet the legislative requirements of the *Child Protection Act 1999*, section 6. This should occur during the intake phase or, where the identity is not known, as part of an investigation and assessment.
- Details of all relevant persons/household members: include the family surname to be used and the primary language spoken by the family and the child.
- Home address and contact details including directions if necessary.
- Current location of the child and the alleged person responsible.
- School or child care details such as name of the school (and grade) or child care centre.

Information from the person contacting the Department

- Name and contact details.
- Relationship to child or family.
- Reason for contacting.
- Source of information: direct observation, deduction, hearsay from others, details of others who can provide corroborating statements and what prompted the caller to contact the Department.
- Future contact with notifier: are they willing to be re-contacted or to re-contact with further information? Is there any agreed future contact with notifier?
- Likely response by the child or family to departmental contact including any information that may affect worker or family safety; for example, threats or history of violence, dogs or weapons.

Attachment 2

Aboriginal and Torres Strait Islander identification

The Department of Child Safety has for a number of years collected Aboriginal and Torres Strait Islander identification data; therefore, this concept is not new. What is new is the concept of Aboriginal and Torres Strait Islander identification becoming a tool to monitor service delivery, particularly in relation to addressing over representation that meets the outcomes required for the Ten Year Partnership and the Justice Negotiation Agreements. Therefore, the inclusion of a whole-of-government approach to collecting Aboriginal and Torres Strait Islander identification data has been developed. The collection of identification data of the wider public has occurred with all peoples and is not exclusive to Aboriginal and Torres Strait Islander peoples. The approach to collecting Indigenous identification data is the same as for other culturally and linguistically diverse groups.

Reducing the level of over-representation of Aboriginal and Torres Strait Islander people is a high priority for the Queensland Government.

In particular, the Queensland Aboriginal and Torres Strait Islander Justice Agreement 2000, seeks to reduce the rate of Indigenous incarceration by 50 per cent by the year 2011 through improved coordination across government agencies and with community organisations.

From 1 January 2003, the identification of all Aboriginal and Torres Strait Islander clients of the criminal justice system has been required to be determined and recorded.

This responds to the growing demand for information to assist agencies to address the level of Aboriginal and Torres Strait Islander over-representation in the criminal justice system.

All criminal justice agencies (Police, Justice, Families and Corrective Services) will record this information on relevant databases, about offenders, alleged offenders and/or victims.

This package will provide you with assistance in ensuring the accuracy of the information you will be asking for and recording.

Definition

The definition of an Aboriginal or Torres Strait Islander person, according to s51 (26) of the High Court of Australia (1983) is:

'An Aboriginal or Torres Strait Islander person, is a person of Aboriginal or Torres Strait Islander descent who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he or she lives.'

You cannot assume on looks alone that a person is of Aboriginal and/or Torres Strait Islander origin. You must ask the person to self-identify.

Objectives

The objectives of this package are to:

- raise awareness of the importance of recording the Indigenous status of clients accurately and consistently
- provide or enhance staff skills in asking the Indigenous status question in its correct format
- improve the accuracy with which Indigenous status is recorded.

Question to ask

To ensure the information is accurate, the following question must be asked of all clients.

Are you of Aboriginal or Torres Strait Islander origin?
(For persons of both Aboriginal and Torres Strait Islander origin, mark both 'Yes' boxes.)

- ☐ No
- ☐ Yes, Aboriginal
- ☐ Yes, Torres Strait Islander
- ☐ Not stated / Refused

Importance of accurate information

- A key recommendation of the *Royal Commission into Aboriginal Deaths in Custody* was the correct identification of both offenders and alleged offenders.
- These recommendations require that appropriate services are made available to Indigenous people.
- Accurate identification allows the Queensland Government to plan, promote and deliver essential victim support services and to account for government expenditure.
- It is also important for monitoring change in wellbeing and any racially targeted aggression.

Difficulties associated with information collection

- In some instances people are reluctant to collect the information.
- Some Indigenous people may be reluctant to respond to the question.
- There will be instances where it is impossible to ask the client.

Identification issues

- Aboriginal and/or Torres Strait Islander people may believe they will be treated differently if they identify.

- They may believe their personal details will be inappropriately provided to other agencies.
- They may have had negative experiences with government agencies in the past.
- Some staff may have difficulty in collecting this information.

Importance of recording Aboriginal or Torres Strait Islander status

- Staff may be concerned that clients will be offended or embarrassed.
- Staff may be too busy.
- Staff may presume a client's Aboriginal or Torres Strait Islander status without actually asking.
- Staff may feel the question is discriminatory.

Discriminatory issues associated with asking the question

- All people are asked the question. It is one of many that are asked such as name, address, and date of birth.
- It is discriminatory not to ask because you are not giving people the chance to identify.
- All people have the same rights regardless of whether they answer the question or not.

Staff awareness

It is most important to note that the accurate recording of the Aboriginal or Torres Strait Islander status of clients is a data quality issue. Put simply:

- it is one of many questions that will be asked of a client
- all clients are asked the same question – Indigenous people are not being singled out.

Why do we need to ask all clients the question?

- A person's Aboriginal or Torres Strait Islander status cannot and should not be determined by observation.
- Determining a person's Indigenous status by looks, speech, behaviour or surname is unreliable.
- The only appropriate way to find out is to ask.
- People should have the right to decide for themselves how they will identify.

Special instances

There may be instances when:

- A person does not want to answer the question because they do not think it is relevant to them.
- A person is upset, shy or scared.
- A person is unable to answer the question as they may be too young.

Some suggestions are:

- Try explaining why this and other information is collected.
- It may be appropriate to give them a brochure to read.
- Ask an Aboriginal or Torres Strait Islander staff member to assist if necessary.
- Reassure the client that the information is kept confidential.

What if the person is not present and you transcribe the information from existing records?

- If possible, verify your information at a later date. If there are two records with different information, use the latest.

What if the person is an infant?

- A parent or guardian should be asked whether they identify the child as being of Aboriginal or Torres Strait Islander origin.

What if the person who should be asked appears unapproachable and distant?

- Try asking the question just like any other question.
- Accept their right to refuse to give an answer.

Privacy issues

- The Queensland Government has strict guidelines to ensure that information remains confidential and is used appropriately.
- All data the government collects is protected by privacy rules.
- Employees are bound by a Code of Conduct.
- Identifying information is not publicly released.
- Only aggregate statistical information is permitted to be released.

How to reassure clients

- Explain why we need to accurately record details.
- Explain why accurate information is required.
- Explain that everyone is asked the question.
- Remind clients about privacy and confidentiality policies.
- Offer a brochure for reading and ensure posters are prominently displayed.
- Refer client to an Aboriginal or Torres Strait Islander staff member if necessary.

Summary

- Accurate information is required for the planning and delivery of more responsive services.
- 'Aboriginal or Torres Strait Islander' is an important piece of information just like any other information such as 'sex', 'date of birth', 'place of usual residence', etc.
- The most effective way of ensuring the Indigenous status data item is accurately recorded is by asking each and every offender, alleged offender or victim the question in its correct format.
- Follow up with people (where appropriate) where a question has been left unanswered.
- You will still need to refer to the 'Question to ask'.

Attachment 3

The People of Wadeye (Port Keats, N.T.)

Wadeye (pronounced Wad-Air) has an Aboriginal population base of approximately 1500 - 2500.

Population figures fluctuate seasonally and depend mainly on access to food and medical supplies.

During the wet season the community can be cut off, due to flooding, making it accessible only by sea and air.

Originally started as a mission by the Catholic Church, today it is controlled by the Murrin-Patha Community Council, the Kardu-Numida.

The Murrin-Patha Clan Group is the largest of several clan groups within Port Keats area.

They are the Traditional Land Owner group and, as such, control the area under traditional (customary) law.

However, the Kardu-Numida Council, made up of elders from all clan groups associated with the area, control the township and its administration.

There are several different language groups at Wadeye, each belonging to a particular land area and dreaming.

Totems are inherited from the father and are called brothers and sisters.

A complex set of relations is then set up, when people with shared totems, across languages and groups, will also call one another brother and sister,

The following table illustrates the variety of tribes and language groups now living at Wadeye.

Tribes and language groups living at Wadeye

TRIBE/ LANGUAGE	PLACE	CLAN/PEOPLE	FAMILIES
Murrin Patha	Wadeye/Yiddi	Kardu Diminin	1
Murrin Patha	Yinthin	Kardu yek Maninh	2
Murrin Patha	Nangu	Kardu yek Nangu	3
Murrin Patha	Werntek Nganayi	Kardu yek Nangu	4
Murrin Patha	Mathalinti	Kardu yek Nangu	5
Murrin Patha	Wunh	Kardu Wunh	6
Murrin Kura	Ngudaniman	Kardu Kura Thipman	7
Murrin Kura	Papa Ngala	Kardu Kura Thipman	8
Ngankiwumerri	Pulampa	Kardu Kura Thipman	9
Ngankiwumerri	Kura Ngaliwe	Kardu Kura Thipman	10
Murrin Nyuwan	Kimul	Kardu Kura Thipman	11
Murrin Nyuwan	Palyirr Numerr	Kardu Pire Pangkuy	12
Murrin Ke	Kuy	Kardu Yek Nannin	13
Murrin Ke	Yedderr	Kardu Yek Yedderr	14
Mari Jabin	Nadirri	Kardu Thangkurral	15
Murrin Amor	Angkilenni	Kardu Yek Thinit	16
Marringar	Kungarlbarl	Kardu Thay	17
Marringar	Nama	Kardu Darrinpirr	18
Marringar	Kurrangu	Kardu Bengkunh	19
Marringar	Kulinmirr	Kardu Bengkunh	20
Murrinh Mentherr	Manthayangarl	Kardu Bengkunh	21
Murrin Emi	Manthayangarl	Kardu Bengkunh	22
Murrin Bathemarl	Barlgarl	Kardu Bengkunh	23

Family groups within clans

1. BUNDUCK DULLA DUNGOI KOLUMBOORT KURAWUL MOLLINJIN NARBURUP PERDJERT PULTCHEN	2. MELPI	3. KURUNGAIYI NARNDU NINNAL TCHEMBING
4. DOOLING NGARRI NGUMBE	5. KERINGBO KULAMPURU (known as NAMALA) WULKLAN (WALAN)	6. ANGLITCHI WARNIR
7. DARTINGA JABINEE MANBY MARDINGA WOLLAMUNN	8. DAIRIYI DJAKUL	9. BERRY WODIDJ MINTHIN NGUNAIR
10. KUDORNGOR	11. BITTING DODD	12. JINJAIR LEWIN (LONG
13. KUNGUL NUDJULA PARLUMPA THAWUL MULLUMBUCK	14. CHULA KUNDAIR PUPULI TUNMUCK	15. BERIDA DUMOO KUNDJIL KUNGIUNG
16. ALLIUNG BARBI (BRINKIN) NEMARLUK NGULKUR	17. KARUI LONGMAIR MARDIGAN PIARPLAM	18. KINTHARI LANTJIN MUNAR NARJIC NUMMAR TCHINBURUR WUNDJAR
19. CUMAIYI MURRIELLE **PARMBUCK** TCHERNA THARDIM	20. DUNGUL JONGMIN MOONGI TIRAK	21. TCHEMJERI (SMILER) WORUMBU

If my direct family are the Parmbucks (19), my tribal name would be Marringar, my home country would be Kurrangu and my clan would be Kardu Bengkunh.

There are other family groups living at Wadeye, because women from around this area have married men from other places.

Attachment 4

Language in the Torres Strait Islands

There are a number of dialects spoken in the Torres Strait. The dialects are broken down from the languages spoken in the different island groups. The languages of the Western and Central Islands speak four major dialects, which are:

1. Kalaw Lagaw Ya
2. Kalau Kawau Ya
3. Kulkalgau Ya
4. Kawalgau Ya.

The language of the Eastern Torres Strait, Meriam Mir, has two dialects:

1. Erubim Mir
2. Meriam Mir

The third language is Torres Strait Creole also known as Blaikman Tok, Broken/Brokan and Yumplatok. Developed from the nineteenth century Pidgin English of the southwest Pacific, Torres Strait Creole. It spread around the Torres Strait Islands during the twentieth century, acquiring its own distinctive sound system, grammar, vocabulary, usage and meaning. It first appears to have become a Creole language (i.e. first language acquired) by about 1910, among the children of St Paul's mission on Moa Island.

There are five (5) dialects in this language which are:

1. Papuan
2. Western Central
3. Eastern
4. TI
5. Cape York

References

Horton D. Ed *The Encyclopaedia of Aboriginal Australia* 1994 Aboriginal Studies Press, Canberra.

Sharp N. *Stars of Tagai: The Torres Strait Islanders* 1993 Aboriginal Studies Press, Canberra.

Singe J. *The Torres Strait People & History* 1979 University of Queensland Press, St. Lucia.

QUEENSLAND CHILD PROTECTION COMMISSION OF INQUIRY

Attachment Marking

This and the preceding 38 pages in the annexure mentioned and referred to as 'Attachment B' in the statement of William Ivinson taken on 26 September 2012

Signature of Witness

Signature of Person taking statement

On this page

Background

Introduction of the Aboriginal and Torres Strait Islander Child Placement Principle

The Aboriginal and Torres Strait Islander Child Placement Principle aims to ensure that Aboriginal and Torres Strait children and young people in care can grow up with a sense of their identity and remain connected with their family, community and culture.

On this page

Brief reason for wanting to improve practice

The Aboriginal and Torres Strait Islander Child Placement Principle Discussion Paper informed and promoted debate among staff and stakeholders. It examined the application of the Aboriginal and Torres Strait Islander Child Placement Principle and the steps necessary to comply with the principle.

From Monday 25 August 2008 till 31 October 2008, Department of Child Safety staff and recognised entity staff were encouraged to have their say on the best methods for placing Aboriginal and Torres Strait Islander children in care and helping them keep in contact with their culture.

It was anticipated that feedback on the discussion paper would be used to help make the Child Placement Principle easier and clearer to apply in practice. Feedback from staff indicated that there was a need to clarify and provide extra guidance about the principle, to ensure it can be consistently applied throughout the state.

A shared understanding of the principle will assist departmental staff and recognised entity staff in working together to implement the principle in the best interests of children.

In Aboriginal and Torres Strait Islander communities, children may consider their direct relatives, extended families and other members of the community, as their family.

Determining the difference between a child's immediate family, extended family and those with cultural obligations to the child, is difficult for those staff inexperienced in applying appropriate kinship rulings, cultural protocol and without support mechanisms in this process.

Input was sought from departmental staff, recognised entities and key stakeholders about the best way to apply the principle and what we can do to better support them.

The feedback was intended to be used to tighten current processes and increase frontline support. This includes developing practical, step-by-step guidelines for departmental and re staff on how to apply each stage of the principle.

Frontline staff and recognised entity staff were invited to have their say on the discussion paper by attending one of the local workshops being held throughout the state.

During September and October 2008, the Department of Child Safety conducted extensive consultation sessions with frontline service delivery staff and recognised entities.

The following approach to information gathering was carried out throughout the workshops:

- canvassing with workshop attendees the full range of the forty seven (47) questions contained in the 'Aboriginal and Torres Strait Islander Child Placement Principle Discussion Paper'
- depending on numbers, attendees were divided up into tables and responses were recorded on butcher paper, referencing those recordings using the specific consultation site
- consultation workshop facilitators recorded the responses received in the course of open discussions held, as progressing through the course of the 47 questions with attendees

- external stakeholders attended the consultation workshops and/or provided their responses in writing
- all of the responses were gathered or received in the course of the consultation workshops including written submissions, formed the initial information analysis phase of the consultation process
- attendees were provided with a draft document containing the full range of responses received in the course of conducting the ten consultation workshops
- responses received within the course of the consultation workshops provided the primary evidence base upon which data conversion, reduction and re-presentation occurred.

The aim of these workshops was to:

- broaden the breadth and variety of perspectives received from frontline staff and recognised entity staff
- maximise the potential of these staff to advise on the future direction to improve practice and implementation of the Child Placement Principle
- enhance the integrity of the information being gathered by ensuring feedback was directly sourced from those stakeholders whose day to day core business included the direct delivery of services to and implementation of the Aboriginal and Torres Strait Islander Child Placement Principle
- further increase the reliability and validity of the information base from which options for further consideration will be derived.

The department conducted eleven (11) consultation workshops across the state of Queensland at Beenleigh, Inala, Toowoomba, Roma, Kingaroy, Caboolture, Rockhampton, Townsville, Mt Isa, Cairns x 2. These 11 sites facilitated the direct face to face responses to the 47 Discussion Paper questions. The sessions occurring in Mt Isa, Cairns and Roma ensured issues emanating from the Gulf, the Torres Strait Islands and south western rural areas were individually examined.

Participants included Child Safety Support Officers, Child Safety Officers, Team Leaders, Managers, Senior Practitioners, external stakeholders and recognised entities.

Within the course of the consultation workshop process, 1615 responses in total were received. Of those responses:

- 1326 responses were received directly from participants within the consultation workshops;
- 289 responses were received from external stakeholders' written submissions.

Five priority responses

In order to maintain the integrity of the qualitative responses received, it was acknowledged that because of the abundance of responses received, a criteria threshold for further analysis would need to be imposed. This was achieved by identifying from the 47 questions, 5 which had provoked the highest number of responses.

The following priorities represent the range of diverse responses received within the consultation workshops:

- **Priority 1 - Gaining knowledge and understanding of Aboriginal and Torres Strait Islander Cultures and histories, the development of cultural understanding and the need to support staff to deliver services in a culturally competent manner.** The number of responses recorded for this priority was 130 and related to questions 1 – 3 of the discussion paper

- **Priority 2 - What should be taken into account when determining the best interests of the child?** The number of responses recorded for this priority was 97 and related to question 7 of the discussion paper

- **Priority 3 - How to overcome barriers for Aboriginal and Torres Strait Islander people to become carers**. The number of responses recorded for this priority was 82 and related to question 34 of the discussion paper

- **Priority 4 - How should the department report on its compliance with the Aboriginal and Torres Strait Islander Child Placement Principle**? The number of responses recorded for this priority was 61 and was in relation to question 4 of the discussion paper

- **Priority 5 - The collection of relevant information prior to assessing a placement**. The number of responses recorded for this priority was 59.related to question 20 of the discussion paper.

Priority 1 - The number of responses recorded for this priority was 130.

Discussion Paper Questions

1. ***What could the Department do to support staff in gaining knowledge and understanding of Aboriginal and Torres Strait Islander people and their cultures and histories?***

2. ***What could be undertaken at a local level with staff to develop cultural understanding?***

3. ***What can be done to support staff to deliver services in a culturally competent manner?***

Participants were of the opinion that the first consideration should be to distinguish between the two cultures of Aboriginal and Torres Strait Islander peoples. Attendees advised that both Aboriginal and Torres Strait Islander people are distinct cultural groups and are diverse in their own rights and should be identified as such.

Cultural Foundation Studies

Feedback suggested that training needs to look at historical factors such as the actions relating to the Stolen Generation it also needs to give departmental staff an understanding of the effects this had on several generations of Aboriginal and Torres Strait Islander people through loss of culture and identity.

It was generally the opinion of participants that ongoing training through the cultural foundations studies conducted by the Department should continue to be compulsory training for all staff. However, participants felt that this training needs to be backed up with more community specific and experiential activities that create direct links between individual CSSCs and the communities they serve. For example, frontline

staff could be required to spend at least one day with the recognised entity employed for that CSSC.

"If staff do not have a thorough grounding in local culture they will not understand the traditional owners" – participating elder.

Community Specific Training

Participants were of the view that further training specific to the cultures and communities in which the department and the recognised entity are working are needed. Training needs to be specific to the cultural groups and area of responsibility of each service centre. 'Community Specific Training' allows for the transfer of such knowledge as Community Profiles, Language Groups, Kinship Systems, local protocols, customary law requirements and attached responsibilities. It is also a valuable tool in advancing local interaction with community at various levels, thus ensuring a high degree of positive community interaction with the Department.

An opinion expressed by participants was that practical cultural competency levels should be developed for all levels of staff having contact with Aboriginal and Torres Strait Islander people in the course of their duties. Cultural competencies should also be considered as part of the PLP process for each staff member and a process for signing off cultural competencies needs to be developed. Considerations will need to be given to:

- employment of local Aboriginal and Torres Strait Islander personnel to conduct localised cultural competency training
- a 'stand alone document' with variances inclusive of local protocol be developed by each CSSC for their area of responsibility
- consultation of recognised entities to identify appropriate persons to assist with such training in the community. This may include community elders and others
- consultation of recognised entities to identify dynamics of local Aboriginal and Torres Strait Islander families.

Branch and/or Job Specific Training

Participants identified that:

- other branches within the Department also need to undertake cultural competency training designed specifically to enhance their area of expertise
- training for CSSOs should be updated to include an interactive role with the community delivery of Community Specific Training to all service centre staff
- the '*Ampe Akelyememane Meke Mekarle "Little Children are Sacred"* 'report and the Human Rights and Equal Opportunity Commission (HREOC) "*Bringing them Home - The 'Stolen Children'*" reports be designated as 'required reading ' to allow a knowledge of the 'Stolen Generations'
- an understanding of local working arrangements agreements recognised entity protocol/working agreements etc training should include placements within Aboriginal or Torres Strait Islander communities
- a certificate and diploma of community services protective care should be developed on Aboriginal and Torres Strait Islander child rearing practices
- information and technology (IT) training should also be designed and made available for recognised entity staff.

The participants were also of the opinion that training for Child Safety Officers (CSOs) needs to:

- include attendance of recognised entity staff to allow their gaining of knowledge of CSO duties and responsibilities, and
- to share the knowledge of recognised entity staff requirements and responsibilities with CSOs.

"A problem with current cultural awareness training is that it is often generic or in-appropriate to the local culture and history. A diverse cultural understanding is needed. Each locality has its own unique culture, history and family connections. For example, there is often more than one traditional owner group in an area. Current training often fails to understand that the local culture is unique. It does not educate people appropriately. Until people understand this, their understanding of Aboriginal and Torres Strait Islander culture and history will always be inaccurate and will result in mistakes being made to the detriment of the people whom they are interacting with" - Participant response.

Fostering Community Relationships

Participants suggested that established protocols between individual Aboriginal and Torres Strait Islander communities and service centres should be made mandatory and followed by all staff having interaction with communities. This is seen as a priority in the maintenance of community/staff relationships.

For departmental staff, feedback suggested it is essential that they understand and respect local culture and people in the community they serve. Departmental staff should never assume knowledge which they themselves do not possess. The best source of knowledge and understanding about local Aboriginal and Torres Strait Islander people are the local people.

Participants highlighted the department should consult with the recognised entity who have close connections with people and families within the community. The recognised entity can assist the department:

- to meet with community elders and other significant people in the community;
- understand and adhere to cultural protocol;
- by liaising with traditional owners to assist or arrange for departmental staff to be educated in local culture, history and family backgrounds.

Participants also suggested that localised Community Elder training needs to be developed to allow elders the advantage of knowledge of the Department, it's roles and responsibilities, legislation and the issues faced by the Department in appropriately placing and where necessary, caring for Aboriginal and Torres Strait Islander children.

Unacceptable Terminology

The feedback indicated that terms such as 'Indigenous' and 'ATSI' are unacceptable terminology. Use of 'Aboriginal and Torres Strait Islander' more accurately explains distinction between each grouping of people. The inclusion of the recognised language groups of each CSSC area of responsibility in local profile and protocol documents is recognised as 'good practice' and a definitive way to commence positive relationship building. Participants recommended that localised training, protocol agreements and service agreements include the use of names of relevant language groups wherever possible to highlight the distinctness of individual groups of people and recognise their distinct heritage.

Recognised Entities

It was the opinion of participants that generally Departmental staff don't have the same expertise, knowledge, skill or commitment to community that the recognised entities have and should not be entrusted to make decisions which are of critical cultural significance to the well being of an Aboriginal or Torres Strait Islander child.

It was also determined by participants that Departmental staff without sufficient knowledge of the different clan groups and factions within clans and families, often act with disastrous and traumatic results for children. According to the attendees, there is a tendency for placement staff within the department to make ill-informed decisions without fully consulting with the recognised entity who have an understanding of the implications. The following practice examples were given to illustrate causes of trauma that can be avoided by listening to the views of the recognised entity about the impacts of potential actions:

- removing a child from his or her mother before the child has had the benefit of bonding with the mother
- placing children in households where there is a factional issues with the child's family
- placing children in households where there is a 'paedophile' [1] known to the community who has not yet been convicted of an offence
- placing children in households where an avoidance ruling under customary law is in practice
- ignoring the recommendations of the recognised entity in relation to placements.

Participants advised the recognised entity could assist departmental staff with:

- cultural training and community awareness
- assisting staff to build a meaningful working relationship with themselves and community, particularly in relation to the appropriateness of placements and cultural issues.

Participants were of the opinion that an increased consistency in decision making will need to be established to allow recognised entities to work effectively across all centres and that front-line staff be given comprehensive training as to their role.

It was suggested by participants that the recognised entity is best placed to assess placement options within Aboriginal and Torres Strait Islander families and communities and should be involved in all aspects of the decision making processes, including initial assessment processes and other practical processes.

Prioritisation of the establishment of recognised entities throughout the state, to ensure appropriate coverage to all communities is seen by attendees as a priority. Many participants felt that while the Department controls funding to both the recognised entity services and peak body issues of discontent due to separation of roles and responsibilities will be an ongoing situation.

External Support
While participants advised they would prefer to see both supported by an agency external to the Department and where this wasn't possible an examination of the levels of exchange of information between recognised entities and the Department;

[1] It should be noted that the word 'paedophile' is commonly used within Aboriginal and Torres Strait Islander communities for any person who is known to be involved in sexual activity with children.

and that an 'Inter-departmental conflict resolution process' be developed to ensure issues of concern are dealt with in a professional and informed manner.

Working Relationships
The participants expressed a need for the Department needs to foster a closer and better working relationship with recognised entities. Recognised entity personnel who live in and work with the community are accountable to their community's complex and immediate ways. The recognised entity, as an individual or organization, requires local knowledge and the trust of the community to operate effectively.

Non-Indigenous Carers Training

Opinions were expressed by attendees that community consultation should be conducted to determine a process to examine the ethical commitment by non-indigenous carers receiving Aboriginal or Torres Strait Islander children in placement. They were also of the opinion that Cultural training should be given to all non-indigenous carers.

Aboriginal and Torres Strait Islander Carers
Participants suggested that specific cultural training also needs to be developed for Aboriginal and Torres Strait Islander carers fitting the description of Section 83 (4) of the Child Protection Act 1999, specifically 'another Aboriginal person or Torres Strait Islander'. A section of this training should be concentrated upon the child's background and to be delivered wherever possible by the community in which the child lives or the recognised entity which is representative of the child's cultural interests.

Priority 2 - The number of responses recorded for this priority was 97.

Discussion Paper Question

4. ***What considerations should be taken into account when determining the best interests of an Aboriginal and/or Torres Strait Islander Child?***

Best Interests
It is clear from the responses received within the consultation workshops, that understanding of 'best interests' evoked a diverse range of responses. Participants have given a clear direction that when arriving at a common and shared understanding of an Aboriginal and/or Torres Strait Islander child's best interests, a multifaceted definition is required.

Personal Concepts
Participants advise that confusion exists in the definitions of 'the best interests of a child' and differences of personalised opinion weigh heavily on the decision making process. Many of these opinions are based on the cultural norms experienced by staff making uninformed decisions based on their own personal concepts of culture, stability and the family home environment. They are not culturally informed decisions arrived at in consultation with recognised entities and relevant community members.

Consideration and Perspectives
It was recognised by attendees that there is a need to develop a clear understanding of 'what are' considerations and establish local protocols to deal effectively with the definition ensuring the cultural connections and perspective of the family and language group of the child is taken fully into account.

Participants advised these perspectives should include such concerns as:

- safety as a foremost priority
- inclusion and planning of cultural events and practices particular to the child's immediate family, the family or clan group
- cultural obligations to the wider language group to which they belong
- the child's perspective
- family connections to be maintained at a level acceptable to the family and the child's community
- adequate support for carers
- expanded funding for recognised entities to support cultural support plans
- child's wishes, and
- age appropriate suitability of placement.

Participants advised the Department needed to be proactive in child participative decision making processes. It was felt that many departmental staff think non-indigenous placements were better than placements with compatible carers and in many instances, the attitude and value base of workers was prejudicially favourable to non-indigenous carers. It was felt this was based on perceptions of quality of care and protection which assumed:

- non-indigenous households are better resourced and provide a more dependable access to health care
- that there is no love in an Aboriginal or Torres Strait Islander household for the child placed.

The above data was further categorised into the following: Components which define 'Best Interests:

Culture	All of those aspects of existence which would distinguish an Aboriginal and/or Torres Strait Islander child from other
Family	Aboriginal and/or Torres Strait islander family members both immediate and extended
Protocols	Processes and systems of service delivery agreed between the Department and the Aboriginal and Torres Strait Islander community
Training	All that is involved in understanding Aboriginality and Torres Strait Islander children and families, in order to understand best interests
Safety	Physical safety and emotional stability
Carers	compatible Aboriginal and Torres Strait Islander family and community members
Connections	Direct contact, indirect contact with family, language and community members
Emotions	feelings
Language	Traditional language spoken by family/community to which the child belongs

Data Summary

It could be suggested that the above and other components all form best interests and, that particular components at particular times, within particular settings may emerge as more dominating than other components at other times in other settings. That is to say, that all those subparts which comprise best interests are inter-reliant, inter-dependent and interactive. The context in which departmental intervention is required, determines at any given time, which component emerges as the most demanding and/or dominant.

There is within the data received in the course of this consultation process, a sense that all which comprises best interests, including the above identified components is fluid, interactive and inter-reliant. To attempt to have one component dominate the other components within the 'best interests' equation is unsupported by both the research available regarding well being and, to contradict more localised knowledge bases such as has been provided on this occasion.

Maintaining Connections
Participants highlighted that when taking into account the maintenance of the child's extended family and community relationships as part of the child's best interests, sometimes carers are not concerned about maintaining that connection and sometimes it is not policed as well as it should be.

An interesting analysis provided by participants is that the Department; recognised entities; the CCYP&CG; Children Services Tribunal; parents and carers all explain their views from the point of the "best interests" of children, yet, we do not often agree. Participants considered this is because of the lack of definition about what is the 'best interests of children', especially when it comes to decisions about placements and family contact visits. Best interests decisions usually involve flexibility and creativity to meet a child's true needs, not perceived need.

Cultural Context
Participants gave further consideration to the "best interests" of Aboriginal and Torres Strait Islander children being the "best interests" within the cultural context. This does not merely mean the children should be aware that s/he is an Aboriginal or Torres Strait Islander child with a particular cultural heritage. It also means that the child's placement should not alienate the child from the values and experiences of the child's family and cultural background. It cannot be emphasized enough that for many Aboriginal and Torres Strait Islander children their main connection with culture is their immediate and extended family.

Cultural Interpretations
Participants were of the opinion that all too often, non-Indigenous interests misunderstand "culture" to mean a set of traditions such as dance, costume and food. Culture runs far deeper than the formalised traditions associated with culture. It includes:

- lifestyle
- day to day living and interacting
- values and priorities about what is important, and
- oral information about family and the child's place within a particular community.

Economic Considerations
Concern was expressed by participants that Departmental reports about suitability of placement may also comment favourably on the economic advantage of a potential foster person or family, the person's level of material comfort, and quality of housing. They advised that all of these material comforts do not necessarily assist the child's identity with his or her culture and community. They firther advised that these comforts may actually contribute to alienation of the child from his/her family.

It was the opinion of attendees that it is important, when attempting to assess the "best interests" of an Aboriginal or Torres Strait Islander child, that the department recognizes that staff are likely to apply different and often inappropriate cultural criteria in assessing the best interests of the child. For this reason, it is extremely important that placement decisions be made primarily or jointly with recognised entity staff representing the child's own community.

Lack of Consistency
Participants reported there is also a lack of consistency in departmental staff assessing the "best interests" of Aboriginal and Torres Strait Islander children. An example given was that different departmental staff may hold widely different views

on what is in the "best interests" of the child. According to the attendees, recognised entity staff have found some departmental staff follow strict procedures while others admit to "winging it", (which comment is taken to mean that no proper enquiry or consultation was undertaken prior to the placement decision).

Priority 3 - The number of responses recorded for this priority was 82.

Discussion Paper Question

34. How do we overcome the barriers for Aboriginal and Torres Strait Islander people to become carers?

Participants expressed that the processes involved are considered daunting for most Aboriginal and Torres Strait Islander people and need simplification wherever possible. Inclusive of the difficulties participants raised are:

- paperwork not culturally appropriate
- high degrees of literacy and numeracy issues
- process too long in time frame/length of questioning
- negative historical stigma/experience associated with communities and Department of Child Safety (eg. Stolen Generation)
- education in the community re: 'best interests' of the child
- recruiting of Aboriginal and Torres Strait Islander people as Community Visitors within the Commission for Children and Young People and Child Guardian
- consistent input from all services
- partnership with community people as stakeholders
- blue card public relations
- lack of translation of Blue Card –e.g., extended family members residing in applicants home
- monetary/financial impediment to providing material needs for child
- recognised entities require additional funding to hold capacity to partner with department
- the ability for family to exploring Guardianship through Family Court / Children's Court to family.

Kinship Carers
Participants highlighted that these issues are inclusive of those that have contributed to the reduction in kinship care placements over time. As the needs of children in care become more complex, Kinship Carers have been requested to cope with demands not normally placed on general carers.

Consideration was given by participants that Kinship carers are a viable option for the way forward in general for children in out of home care but need to be recruited and supported through culturally appropriate agencies to overcome the barriers. They also need specialised training in:

- caring for children who are kin
- managing relationships with family
- providing the care, love and nurture of children who have been abused and neglected, and
- providing the necessary expertise to deal effectively with issues of this nature.

Aboriginal and Torres Strait Islander 'Blue Card Unit'

Participants agreed more information needs to be provided to possible carers. A 'blue card unit' staffed by Aboriginal and Torres Strait Islander people is needed to break down the barriers and negative perceptions currently existing. This unit could:

- provide summation sessions
- assist with completing applications
- act as an advisory unit for appealing negative notices, and
- provide support with obtaining ID
- giving other information.

Legal Aid Queensland has advised:*" We note the percentage of Aboriginal and Torres Strait Islander children living away from home with kinship or Aboriginal and Torres Strait carers is 61.2% in Queensland according to the Department's figures. This is low compared to New South Wales where 85% of Aboriginal children in foster care situations are placed with Aboriginal carers…..*

Legal Aid Queensland further advised they *"see the "blue card" process as a systemic barrier to the implementation of the principle. The "blue card" process is still having the effect of excluding many Indigenous families as foster carers for many reasons. The Department needs to re-think their policy position with respect to requiring Aboriginal and Torres Strait Islander carers and their close family members to have "blue cards" and to go through the actual "blue card" process".*

It was also an opinion of Legal Aid Queensland that while the Department criminal history checks could still be conducted, assistance could be given carers in accessing this process and to expedite the process so that a decision is known early on in the Department's contact with the child.

Priority 4 - The number of responses recorded for this priority was 61.

Discussion Paper Question

4. How should the department report, using administrative data (the data collected on a regular basis by the department), on its compliance with the Aboriginal and Torres Strait Islander Child Placement Principle?

Participants responded in varying ways to this question. They included:

- the Department needs to be more proactive in providing quarterly updates which would include reporting by the local recognised entity on issues of concern
- the term 'Kinship Carers' is 'too loose', misleading as to statistical evidence and compliance with the Aboriginal and Torres Strait Islander Child Placement Principle
- non-Indigenous 'Kinship Carers' have Aboriginal and Torres Strait Islander children placed with them and are regarded as being in compliance with the principle. This has been noted as a mis-representation of facts and unacceptable by the Aboriginal and Torres Strait Islander communities
- ICMS reports need to be published that are specific to statistics pertaining to Aboriginal and Torres Strait Islander children
- participation and/or involvement of recognised entities must take place in the completion of SDM decision making tools
- there is no differential reporting capacity for recognised entities in decision making
- reporting compliance should be in line with the particular part of Section 83 that is being used to place the child; this should include the detail of consultations had with the recognised entities around placement

- detail of consultations and attempts to place children in accordance with Sections (a), (b) and (c) need to be provided to emphasis why placement has proceeded to Section 83(4) or placement with a non-Indigenous carer
- reporting requirements should not be cumbersome, or adding to the workload of staff
- records should be kept in regard to decisions of the Children's Services Tribunal that does not comply with Section 83(4) of the Child Protection Act

It should be noted here that as of December 2008, the figure of 1159 (66%) of Aboriginal and Torres Strait Islander placements did not comply with Section 83 of the *Child Protection Act* 1999. Most placements, if they do fall within the hierarchy, fall into the Section 83 4 (d) – another Aboriginal person or Torres Strait Islander, but this is not actually an indication that consideration has been given to the 'order of priority' which is Section 83 4 (a), (b) or (c) first. Section 83 4 (d) another Aboriginal person or Torres Strait Islander is primarily made up of the pool of carers already on the departments books and could be geographically located anywhere throughout Queensland.

Placed with Kinship or Indigenous Carer doesn't necessarily mean these children have been placed using the hierarchy as set down in the Act. An indigenous Foster Carer for instance could be living in Toowoomba and have no connection to a child living in Cape York.

Residential is not mentioned in the Act yet as of December 2008, 61 Aboriginal and Torres Strait Islander children were placed in residentials. The picture that is emerging from the collection of data is that the Department is in fact failing to meet the hierarchy set out in Section 83 (4) of the Act.

- If a child is placed under Section 83 (7) the carer and the department should be providing data on how they comply with this section of the Act including the carer's maintenance of their cultural identity
- differentiation should occur between Aboriginal and Torres Strait Islander children in reference to data collected
- more comprehensive data is needed to identify Aboriginal and/or Torres Strait Islander children on a per service centre basis to better determine need and outcome
- need to reflect very clearly that they have consulted with and allowed the participation of the recognised entity and relevant Aboriginal and Torres Strait Islander services
- ICMS system to include the Aboriginal and Torres Strait Islander Child Placement Principle compliance assessment tool.
- data is needed to capture Aboriginal and Torres Strait Islander children returning to families (reflecting full adherence to the Child Placement Principle)
- it is not sufficient to provide a generic figure for all children placed with Aboriginal and Torres Strait Islander carers
- the Department should distinguish between children placed in different priority placements
- the department should provide more qualitative data about actual compliance with the Aboriginal and Torres Strait Islander Child Placement Principle e.g., reporting step by step on attempts of trying to place a child with kin and other Aboriginal or Torres Strait Islander people in compliance with the principle and the *Act.*

Participants questioned the overall accuracy of data noting they had failed to ascertain how the Department could substantiate many of their claims. They felt the

data did not accurately reflect the number of Aboriginal and Torres Strait Islander children in care.

Priority 5 - The number of responses recorded for this priority was 59.

Discussion Paper Questions

20. ***How much personal information, and about whom, should be collected prior to assessing a placement?***

21. ***How should collecting and recording of such information be enabled so it is flexible enough to allow for variances across Aboriginal and Torres Strait Islander cultures?***

22. ***Who is appropriately the holder of detailed, personal information about the child's family and community relationships? Is it perhaps a particular department, a recognised entity or someone else?***

23. ***What detailed personal information should be recorded by the Department of Child Safety about an Aboriginal or Torres Strait Islander child's family and community members?***

Local Protocols
Participants were of the opinion that the first step to be taken is the establishment of protocols for the development of 'community profiles'. The profiles could become standardised tools that would allow a worker enough information to instigate an appropriate case plan. This plan would then be followed by further investigation by identified CSSO positions and recognised entities to take a holistic approach to establish family and community links of the child.

Shared Information
A further suggestion was that a trial be instigated within a zone to establish a shared data-base between the Department and all recognised entities. This database to include the collection of:

- personal information
- cultural information
- case by case decision making
- family geno-grams[2] or family trees
- local information provided through consultation
- Aboriginal and Torres Strait Islander social policy norms e.g. traditional adoptions – where appropriate, each community to provide adoption protocol profiles
- information regarding development in kinship care and reunification
- information collected at different stages
- information applicable to all communities.

Sharing of information was supported by participants, however, they expressed concerns existed in relation to confidentiality. The enforcement of service agreement clauses need to be rigidly based to ensure:

- the recognised entity could hold the information providing it was held securely
- the handing back of files from the recognised entity once a child exits from care

[2] Family Trees will be used throughout this document to replace the common Departmental term of Geno-gram. This to facilitate understanding by Aboriginal and Torres Strait Islander participants who determine family trees as a confusing descriptive. It is not meant to detract from the meaning understood by the Department.

- the Department has to hold the information as it relates to a child subject to intervention under legislation.

Consideration by participants was that as much information as is relevant should be gathered to assess a potential placement option taking into account the need for:

- a sound understanding of relationships
- persons identified as supports
- persons identified as posing a risk to the child
- contact details of family, and
- cultural support plan details.

Community Knowledge and Customary Law based provisions
Participants highlighted that personal information held by the Department about Aboriginal and Torres Strait Islander children should be on a "need to know" basis only. Some cultural information for varying reasons should not, and will not, be shared by the community, and if known should not be the property of the department.

Feedback suggested that there appears to be a misconception that storage of information may provide sufficient basis for effective decision making about the placement of Aboriginal and Torres Strait Islander children. This view is erroneous for all of the reasons described in previous paragraphs.

Participants emphasised in particular, the view that family and cultural information can be captured, recorded and then used as a basis for effective decision-making by persons who are non-indigenous and not part of the Aboriginal and Torres Strait Islander communities, is based on the erroneous view that culture is static and that families' situations are relatively static. Culture is a part of community and is dynamic, that is, it is forever changing and evolving.

Continued use of recognised entities
It was the opinion of participants that Departmental staff cannot reliably make effective decisions about the placement of Aboriginal or Torres Strait Islander children without continual consultation with the recognised entity as a community representative body. The views expressed in the preceding sections about the collecting of information also apply to this question. Participants further advised that collecting and recording of information will not assist the department to make more effective decisions about the placement of children, particularly given that decisions often need to be made urgently. Further, stored information becomes obsolete and misleading over time.

Aboriginal and Torres Strait Islander vs Other considerations
An example given by attendees was that a generalized notion that in placing the children, both sides of the family should be considered equally as placement options, may not be appropriate in every case. Where there is a family mix in which one family or culture is dominant, it may be that placement options should appropriately be made with the dominant family.

Participants highlighted that the cultural mixes and the cultural factors affecting individual families are diverse and do not lend themselves to being captured in a body of knowledge that will adequately assist departmental decision making. Families are often a mixture of several cultures and Departmental decision making has often been flawed by applying generic processes and protocols.

Comment from a grandparent:

"I would like to make a comment about the placement of Indigenous children into foster care.

I believe that it is essential that Child Safety Officers acknowledge that some Indigenous children are of mixed descent. That is, one parent may be Aboriginal or Torres Strait Islander and the other may be Anglo-European. I don't believe it is necessarily in the best interests of the child to be placed with Aboriginal or Torres Strait Islander relatives simply on the basis that they are part Indigenous. Due consideration must be given to how much contact they have had previously with their A&TSI relatives. For example, my 3 granddaughters had had no previous contact with their Indigenous relatives prior to their current placement with an Indigenous Uncle and his wife. Yet I had been part of all their lives since the day they were born.

Also the girls' brother who is not of Indigenous descent is in a separate placement with an Anglo-European family, thus limiting the amount of contact he is able to have with his sisters. It is my understanding that he was placed separately because he is not Indigenous.

Child Safety Officers must be made aware that the backgrounds of some Indigenous children means that placement with an Indigenous family may not be the best and only option for these children. Their Anglo-European roots must be given consideration as well".

Participants advised that a biological relationship is not sufficient to describe which protocols should be followed in placing the child with kinship carers. Only the involvement of local representatives of the community with inside knowledge of family and cultural relationships can effectively avoid the errors which inevitably arise out of misinformed decision-making.

Consideration was given by attendees that many children and young people in and entering care have a background of mixed cultural identities. The complex challenge of maintaining contact and connection for a child whose biological parents and others with whom s/he has significant attachments may have a number of different cultural affiliations. This mix may include:

- different Aboriginal or Torres Strait Islander community, island or clan groups
- both Aboriginal AND Torres Strait Islander
- Aboriginal and/or Torres Strait Islander and Australian South Sea Islander
- Aboriginal and/or Torres Strait Islander and/or Australian South Sea Islander and Australian non-Indigenous.

The concern raised by participants was, when a child or young person in care is placed according to the Child Placement Principle in a placement appropriate for the background of one of his/her biological parents, this can result in disruption, even severance, of connections with their other biological parent and/or significant others (i.e., people with whom the child or young person has important attachments) from different cultural backgrounds. This is considered undesirable and that it is in the best interests of children and young people in care to know and understand and have continuing connection with all of their biological parents and significant others.

Accordingly, participants recommended that the policy concerning the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle should have further refinement and development to encompass recognition of the widespread reality of hybridity in cultural identity.

Anthropological Information
Participants advised that anthropological information, no matter how well documented as an academic exercise, is neither up to date nor accurate. Such information is always second hand and interpreted through the medium of the anthropologist's own culture and prejudices. Such information is not dynamic or accurate and should not be relied upon entirely to make decisions about the placement of children.

Further opinion expressed by the participants was that personal information should:

- only be held by the department on a "need to know" basis
- be obtained from the recognised entity as required to update knowledge

Participants highlighted that it is not culturally appropriate to store detailed family and cultural information. Further, such information, once stored, rapidly becomes out of date, highlighting the need for primary or joint involvement of the recognised entity which can provide the benefit of both up to date information and appropriately targeted placement options.

The participants suggested that following information as an example of what could be collected by recognised entity services:

- personal information in relation to the child and the caregiver, regarding how the child was raised by the caregiver specific to their culture (Aboriginal and Torres Strait Islander) e.g. raised as an Aboriginal child or Torres Strait Islander child per the child rearing/adoption practice of a particular community / language / Island group
- other family members who have a relationship or shared the care of the child e.g. paternal and maternal family of the child (Geno-gram / family tree) geographical information, (where does the family originate from)?
- current circumstances of the family e.g. place of residence, place of employment, current and projected capacity, family information/particular sensitive circumstances particular to that child (e.g. family feuds) that is integral to the placement of the child.

Responsibilities of community in the collection of information
Opinions expressed by the participants was that for acceptability purposes the person recording the information wherever possible should be an Aboriginal or Torres Strait Islander person and the family must consent to the information being shared. Collection of this data from outsiders can be deemed to be both insulting and intrusive against customary rulings.

Other Discussion Paper Questions not included in the five priority responses.[3]

Discussion Paper Questions

5. ***Does current legislation accurately guide the process of placement in accordance with the Aboriginal and Torres Strait Islander child placement principle?***

6. ***If not, what additional guidance required to ensure the process of placement is more in line with the underlying purposes of the Aboriginal and Torres Strait Islander Child Placement Principle?***

Participants generally felt that there are problems with the drafting of current legislation and the way in which it is implemented by the Department. It was felt that legislation accurately guided the process of placement, however, criticism is levelled at the Department for not adhering to the principle itself by not providing necessary tools of identification of appropriate and compatible carers to implement Sections 83 4 (a) (b) and (c). Participants recommended a complete analysis of this process and development of appropriate tools to enact Section 83 of the *Act.*

An opinion of participants was that legislative amendment is required to ensure:

- the inclusion of a regular internal legislative review process of the delivery of the Aboriginal and Torres Strait Islander Child Placement Principle
- amendments to all departmental review processes required eg: FGM, case discussions, case planning, long term guardianship decisions to invoke a 'special duty of care'.

Mandatory Training
Mandatory training in legislative requirements was seen by participants as necessary for all staff dealing with matters pertaining to the protection of children of Aboriginal and/or Torres Strait Islander descent.

Attendees advised that a lack of consideration existed for the wishes of the Aboriginal and/or Torres Strait Islander child and their individual cultural background. Involvement of recognised entities at intake stage was crucial yet rarely occurred. Participants suggested that it is necessary that enactment of the Child Protection Act requiring the input of recognised entities be monitored and serious breaches of the *Act* be dealt with accordingly.

Consideration had by attendees was that there is adequate guidance and information to make decisions about placing a child in Care in accordance with Section 83 of the *Child Protection Act* 1999.

Participants were of the opinion that in practice, some factors make this difficult. An example given was the Children's Services Tribunal (CST) being approached by a non-Indigenous carer who may be not ensuring a child's cultural needs and connections are being met to seek review of a decision to remove a child from their care.

[3] Note: *All the following are in the order of the questions asked in the discussion paper less the five priorities.*

Child Placement Principle order of preference

Attendees advised the Aboriginal Child Placement Principle as originally espoused in the policy statement of the Qld Department of Families, Youth and Community Care, in its joint agreement with the Queensland Aboriginal and Islander Child Care Agency's (AICCA's) provided for a clear order of priority in the placement of Aboriginal and Torres Strait Islander Children. The order of priority is reflected in Section 83 of the Child Protection Act 1999 ("the Act") as follows :

- Initial preference to be given to placement with *a member* of the child's family;
- Second preference to *a member* of the child's community or language group;
- Third preference to another Aboriginal person or Torres Strait Islander who *is compatible* with the child's community or language group;
- Fourth preference to *another* Aboriginal person or Torres Strait Islander.

Participants agreed the order of preference reflects the principle, as originally expressed, that as far as possible Aboriginal and Torres Strait Islander children should retain their relationship with their families and culture:

"Placements must enable the best retention of the child's relationship with parents, siblings, extended family, community and culture, in a manner which best serves the welfare and interests of the child. Traditional, cultural obligations such as initiation or funeral obligations may apply to some children in care. Therefore, placements must account for children being able to access these cultural obligations. Advice from the community must be sought."[4]

Section 83

Participants were of the opinion the Aboriginal Child Placement Principle should be expressed in its entirety at the beginning of the *Act*. A reasoning is that while the *Act* incorporates the principles and provisions of the Aboriginal Child Placement Principle, they do not appear in full until Section 83 of the Act and the Aboriginal Child Placement Principle is generally read in disparate sections of the *Act*. In some respects the provisions of Section 83 are watered down or may be in conflict with the earlier sections of the *Act* expressing the principles under which the *Act* is to be administered.

An interpretation by participants of the *Act* was that it provides for consultation with the Aboriginal and Torres Strait Islander communities both in earlier sections of the Act and in particular with the recognised entity as provided in Section 83 of the *Act*. A problem seen with the language of the sections, however, is that they lend themselves to the interpretation that compliance is to some extent at the discretion and convenience of the Department. Attendees advised a criticism of the legislation is that, in practice, Departmental employees very often interpret the disparate sections of the *Act* in terms of the department's own convenience. Section 83(2) is seen to be worded in a way which merely requires that an opportunity be given. As well, it is seen that in Section 83(3) in circumstances of urgency, a decision may be made without consultation with the recognised entity.

Section 6

Apart from the general statements about "Principles for Administration of the *Act*" in section 5(2) of the Child Protection Act 1999 ("the *Act*"), Section 6 makes special provision for Aboriginal and Torres Strait Islander children, as follows :

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[4] *p.4 Aboriginal and Torres Strait Islander Child Placement Principle Discussion Paper*

- Section 6 (1) When making a significant decision about an Aboriginal or Torres Strait Islander child, the chief executive or an authorized officer must give an opportunity to a recognized entity for the child to participate in the decision-making process
- Section 6(6) defines a "significant decision" as one "likely to have a significant impact on the child's life"
- in relation to decisions other than a significant decision, Section 6(2) requires the chief executive to "consult with a recognised entity for the child before making the decision".

Advice received from participants was that the effect of both subsections 6(1) and 6 (2) are "watered down" by Section 6 (3) which provides that the chief executive may consult with the recognized entity "as soon as practicable after making the decision" where it is "not practicable [to comply with subsections (1) or (2)] because a recognized entity for the child is not available or urgent action is required to protect the child".

Participants highlighted that Section 6(4) requires the Children's Court, when exercising a power under the *Act*, to have regard to the views of the recognized entity or where this is not practicable, the views of members of the community to whom the child belongs. Further, the Court is required to have regard to "the general principle that an Aboriginal or Torres Strait Islander child should be cared for within an Aboriginal or Torres Strait Islander community."

Participants further highlighted that under Section 6(5) of the Act the chief executive is required to "As far as reasonably practicable...conduct consultations, negotiations, family group meetings and other proceedings involving an Aboriginal person or Torres Strait Islander (whether a child or not) in a way and in a place that is appropriate to Aboriginal tradition or Island custom". Again, the language of the section is such that it gives the department a discretion to determine what is "reasonably practicable".

Section 11

Participants were of the opinion that Section 11 (definition of parent) of the Act needs to be reflective of Torres Strait Islander traditional adoption practice, and Aboriginal child rearing and adoptive practices.

The main problem perceived by participants was that while Section 83 (4) is comprehensive so far as the Aboriginal and Torres Strait Islander Child Placement Principle is concerned, the preceding sections and subsections of the *Act* allow departmental employees to use or interpret the *Act* in ways that are:

- disadvantageous to Aboriginal and Torres Strait Islander children
- not in the spirit of the Aboriginal Child Placement Principle, and
- exclusive to the recognised entity in significant ways.

An example given by attendees of this exclusion is the provision for consultation "as soon as practicable after" placement. Participants were of the opinion that this assumes that staff of the recognised entity are less available in relation to Aboriginal and Torres Strait Islander children, than staff of the department. Attendees advised that in reality, the department has mobile phone numbers for key people within recognised entities who are on call after hours. They further advised that to assume staff are less available to their own communities than are departmental staff is a gross misunderstanding of the commitment and professionalism of recognised entity's employees in relation to the communities in which they live.

Another problem seen by participants with the drafting of the legislation is the lack of any clear statutory process requiring departmental staff to follow a process which honours the Aboriginal and Torres Strait Islander Child Placement Principle. This appears to allow Departmental staff to interpret the principles contained in the *Act* loosely and to "read down" the meaning of the principle to a requirement to provide information to the recognised entity after decisions have already been made by Departmental staff.

Participants advised the 'reading down' of the legislation to a mere "information providing" exercise is unfortunately believed to be a common experience and gives the appearance of reducing the Aboriginal and Torres Strait Islander Child Placement Principle to a mere token gesture. Attendees were of the opinion that the outcome has been numerous mistakes by Departmental staff in the placement of Aboriginal and Torres Strait Islander children, unnecessary trauma and displacement to children who are removed from families, and the fostering of a deep mistrust of the Department within the community.

Participants were also of the opinion that:

- the impact of excluding the recognised entity in any meaningful way often compounds the trauma for children who are removed from the care of their parents and fosters mistrust and antipathy towards the Department in Aboriginal and Torres Strait Islander families and communities
- legislation should provide for a statutory process requiring the recognised entity be the primary decision maker in relation to the placement of Aboriginal and Torres Strait Islander children
- the recognised entity having a statutory role in the placement of children
- the process and steps which departmental staff must take in order to "consult" with the Department need to be clearly set out in the Act
- the Department should have a right of appeal to the Children's Court if it disagrees with their decision
- the *Act* can provide an onus on departmental staff to take the necessary steps to involve the recognised entity and the steps necessary to prove actual consultation.
- the Act should provide for an appeal process by which departmental placements of Aboriginal and Torres Strait Islander children may be legally challenged where it can be shown that the department has failed to discharge its onus to properly consult with the recognised entity before placing a child.

Participants considered that in the absence of any statutory requirements as to how the department must "consult", and in the absence of any legal process to challenge Departmental mistakes in the placement of Aboriginal and Torres Strait Islander children, the principles in the *Act* will be interpreted variously by Departmental staff and may be "read down" at the Department's own convenience, not-withstanding Departmental protocols.

Discussion Paper Questions

8. ***Does the Aboriginal and Torres Strait Islander identification package provide support and assist staff to establish a child's cultural identity?***

9. ***What, if any, other Aboriginal and Torres Strait Islander specific questions should be asked, and recorded, as part of the identification process?***

10. ***What is the most effective way of communicating the Aboriginal and Torres Strait Islander identification process to staff?***

11. ***What departmental support for staff would ensure all departmental 'first contact' personnel enquire about the preferred cultural identity of clients?***

Identification Package
Prior to attending, most workshop participants, were not aware of the Departmental 'Identification Package' and upon examination were of the opinion that there was a need to revise the identification process and that the package should be localised. They were of the opinion that ICMS currently does not adequately record the child's 'country' (geographical place of belonging) or the language group and clan/family to which he/she is an integral part of. Participants advised this process is considered to be an integral component of identification of the child and that appropriate placements cannot be made unless full consideration of these factors have been taken.

Role of CSSOs
Participants felt that an expanded role of the 'Identified' CSSO position could include an advisory function in case discussions and Family Group Meetings to support staff and ensure all departmental 'first contact' personnel enquire about the preferred cultural identity of clients. This position was also seen as a prime position in ensuring the communication of the Aboriginal and Torres Strait Islander identification process to staff.

Identity Process
Also seen by attendees as a necessary component was the development of an identity process which would be consistent across all CSSCs. Consideration of appropriate documentation would need to occur to allow for the recording of the breakdown of identity into a data field. Standardised questions would also need to be developed for intake and follow up interviews.

Participants considered that to compliment this process it was necessary to develop a Community Identification Process that would allow for further development of a community profile analysis tool. Local organisations should be consulted and consultation with the Department's Aboriginal and Torres Strait Islander employees along with relevant organisations such as the 'Link-Up Aboriginal Corporation Queensland' network.

Localised Training
To normalise these changes to daily practice, attendees felt that it would be necessary to develop localised training to ensure all staff were aware of the process and particular positions specialised in the components delivered.

Other considerations of participants were:

- in establishing identities, staff specifically need the location of traditional background and family surnames, in order to try to establish connectivity
- while the current identification package may raise staff awareness, it is seen as of little real assistance in establishing a child's cultural identity by itself
- the department needs to consult with the recognised entities as representatives of the child's own community, and

- to seek the assistance of the recognised entity in establishing all matters concerned with the child's cultural identity.

"Murri and Islander staff are seen as essential – they should be valued and recognised for their high degree of knowledge and difficult roles" – participating elder.

Discussion Paper Question

12. Should other models be considered as a way of obtaining information about a particular child's family and community, and potential carers?

Definition of 'Community'
Attendees advised that Aboriginal and Torres Strait Islander people live in a variety of community models throughout Queensland. They include discreet, rural, remote, urban and language group communities. Many of these communities are made up of numerous language and clan groups removed from their 'country' or place of origin. While traditional methods of information collection such as family trees and kinship systems need to be developed, other methods or models where identified should also be considered. Also, to work closely with recognised entities an assurance of confidentiality would be required and that formalised protocols would need to be developed to ensure the process.

Specialised positions
Participants felt consideration by the Department should be to fund specialised positions within the community identifying family, developing family trees and working with specialists organisations such as "Link-Up Aboriginal Corporation Queensland' to establish relationships. It was considered the concept of an Aboriginal and Torres Strait Islander Kinship Care Service would be extremely helpful, especially if they not only find family, but support them after assessed as suitable.

Participants recommended the creation of new identified positions (Child Placement Principle Workers) located both within the Department and non-Government Organisation (NGO) sector (e.g. recognised entity service, Aboriginal and Torres Strait Islander Alternative Care Service and QATSICPP) that primarily and holistically deals with the adherence to the Child Placement Principle e.g. facilitate family meeting to develop family trees / cultural plans, develop recommendation to recognised entities / Aboriginal and Torres Strait Islander placements and the Department regarding placements.

Recognised entities
Attendees highlighted that culture and community are dynamic. They advised that no amount of information, including family trees can replace on-the-spot and up to date knowledge which representatives from Aboriginal and Torres Strait Islander communities can provide. Participants were of the opinion that the recognised entity is in the best position to provide relevant information and is able to provide a balanced and knowledgeable view in establishing identity and determining child placement. Each CSSC needs to conduct a cultural induction process about recognised entity function to all Departmental service centre staff.

Kinship Carers
Participants suggested that a different system should be established for placing children with kinship carers. They felt children should be placed with extended family and the decision as to who would be a suitable kinship carer should be made

primarily or jointly with the recognised entity; the recognised entity should be responsible for the immediate placement decision since a decision can be made very rapidly and with relative accuracy as compared with the department's assessment process.

Discussion Paper Questions

13. ***What circumstances may be considered "urgent' so as to make it permissible not to involve the recognised entity in the placement decision?***

14. ***What is an acceptable time frame for consulting with the recognised entity, as soon as practicably after an urgent decision has been made?***

Funding / Resources
Participants advised there was generally inadequate funding provided for recognised entities to respond to situations regarded as "Urgent circumstances". Most recognised entities were required on weekends or after hours and had little or no funding to operate an after hours response. Recognised entities advised they see this as a standard that is lacking across the state.

Acceptable timeframes
Attendees generally advised that 'acceptable timeframes' should not be considered and that while immediate considerations must take place for a child at 'imminent risk of harm', funding should be provided to facilitate after-hours operations with 24 hour access to pre-case review consultation with the Department.

Participants indicated that reports of immediate child protection concerns where a child is in danger are obvious and accepted as abnormal situations requiring immediate temporary placement. These circumstances include such events as:

- a child found at scene of a crime or accident
- when the Queensland Police Service have began an investigation or immediately require to interview a child, and there is no time or momentum to stop the interview to wait for the recognised entity
- A child is suicidal or homicidal or requiring immediate medical attention.

Participants further advised that if it is after hours, it would depend on what has been put in place with the recognised entity regarding consultation; generally within 24 hours of the urgent decision and action being made. Also, staff of the recognised entity are, in general, far more "on the spot" in community than are departmental staff. Participants advised that generally, Departmental staff have mobile phone numbers of recognised entity staff who are on call 24 hours per day and were of the opinion that there is no circumstance in which the recognised entity should not be involved in placement decisions.

Discussion Paper Questions

15. ***What information and advice should be sought from, and provided by, the recognised entity where consultation occurs after the placement decision?***

16. ***What are the expected outcomes from the consultation process with recognised entities?***

17. In what circumstances should an urgent decision be reviewed because of the consultation with the recognised entity?

Recognised entity consultation
Participants advised that:

- extensive consultation regarding best possible placement should be sought with recognised entities at the nearest available time
- consultation with recognised entities needs to be direct contact (face to face) to allow for the transfer of sensitive information and complex family kinship network
- many aspects of information need to be explained orally as opposed to a detailed written report or analysis
- arrangements prior to consultation should be viewed as a temporary emergency placement arrangement.

It was the opinion of the participants that recognised entities should provide information about;

- family background/history
- family placement options
- family support options (who can provide support and whose opinion should be most heavily weighed upon in decision making, e.g. grandmother, etc)
- understanding of family relationships
- information of cultural activities and what it will be required to truly connect a child to their family and culture if having to be in a non-Indigenous placement or residential
- community agencies with support options and links that will assist the family
- their views about which option for placement or intervention.

Participants also advised that expected outcomes from the consultation process include:

- a minute examination on the decision making tools
- interagency sign off on placement decision based on consultation recommendation
- intake- all agencies provided with informed decision making
- defined consultation
- robust discussions, compromise
- consideration of high risk/s to child – legislative requirements
- case discussions – look at all the possible options
- complete examination of necessary cultural considerations
- examination of and detailed analysis of family placement and/or support options that need to be provided.

Consideration was had by attendees that the real outcomes sought should always be to ensure the safety of children physically, emotionally, spiritually and culturally. Participants determined that these outcomes cannot be delivered while those people in the best position to assess the child's needs are not involved in the decision making process.

A perception of many attendees was that consultation alone has proven grossly inadequate in the decisions made about Aboriginal and Torres Strait Islander child placement and that Departmental staff frequently ignore legislative requirements and service delivery protocols.

Participants considered that without any legal process to enforce the onus on Departmental staff to ensure that the recognised entity is the primary or joint decision maker for the placement of Aboriginal and Torres Strait Islander children, gross

errors will continue to be made at the expense of Aboriginal and Torres Strait Islander children, families and communities.

Attendees reported that many Aboriginal and Torres Strait Islander families have a profound mistrust of departmental staff due to their previous bad experiences of dealing with the department. By contrast, the recognised entity staff live in their communities and are able to gain the trust of families and others within the community to make appropriate enquiries and to provide more accurate decision making about placement of children.

Opinions expressed by participants was that legislation should be amended to provide for decision making about Aboriginal and Torres Strait Islander child placement to be made primarily or jointly with the recognised entity. Such provisions need to be legally enforceable. In particular, there should be provision for:

- preferably that the recognised entity be the decision maker and the department have a right of appeal to the Children's Court
- that there be provision for an urgent Court injunction to prevent a child being placed in a dangerous situation, and
- if the recognised entity is not the decision maker, that the recognised entity or a child's family have the right to an urgent Court appeals process against placement decisions which breach the Aboriginal and Torres Strait Islander Child Placement Principle and which place a child physically or psychologically at risk or where there is a real likelihood of placement breakdown.

Attendees felt that an urgent decision should be reviewed where information not known by the Department highlights a child is possibly unsafe or at risk of significant harm, based on a decision already made.

Discussion Paper Questions

18. How can information sharing between recognised entities be enhanced and improved when geographical location and community or clan group location do not coincide?

19. Would the introduction of community profiles assist with information sharing and child protection practice?

Participants advised:

- the department needs to spend money, time and quality, planned resources to develop a recognised entity database where Language Group and Family/Clan group information can be shared through linking and connecting with other recognised entities and integrated with the Departmental ICMS system; a particular example of case transfer issues provided was when recognised entities need to consult with colleagues in other zones
- recognised entities already work well together in sharing information across language and clan groups
- Formal information sharing protocol for recognised entities should be developed
- funding should be made available for recognised entities to co-ordinate their approaches and share information where there are a number of different communities involved in the same child placement issue
- there is a need for co-ordination between recognised entities in different localities

- there is no protocol or legislative basis for effective communication between the recognised entities
- there is no strategic direction in terms of what the goals and strategies for effective communication are
- funding should be made available to enable discussion on goals and processes for information sharing between different recognised entities
- recognised entities have to be given the opportunity to work out protocols for information sharing and keeping each other informed as to matters in which they have a mutual interest
- recognised entities need to establish Partnership Agreements for working together
- recognised entities and the department/s need to establish working relationships which are clearly defined and enforceable by legislation.

Participants advised that while consideration should be given to recognised entities wishing to establish more effective information sharing and communication, it was the opinion of the participants that it should not be at the expense of the community based nature of recognised entities. Any protocols, agreements or legislation should not be at the expense of the community based nature of the work undertaken by recognised entities.

The introduction of community profiles would assist with information sharing and job protection practice with proper consultation with local recognised entities and communities to ensure the integrity of the information.

It was recommended by attendees that recognised entity services be provided with support to regularly meet on a regional and state-wide basis to network and maintain professional relationships.

While the above changes are recommended by participants for Queensland, on a national level the lack of communication and information sharing between States and Territories is poor. Participants also recommended that the following be considered:

- all of the above referred to in relation to State recognised entity's to be applied on a national level; and
- consideration be given to uniform legislation as between States and Territories, similar to the Uniform Civil Procedures legislation.

Discussion Paper Questions

24. What are suitable tools for distinguishing bet ween family and community members (Hierarchy options 1 and 2)?

25. To what degree should the department rely on recognised entities to provide advice about a child's position in the community including advice about distinguishing family members from community members?

26. How much personal information should be collected at the outset? For example, to what extent should the Department collect personal information about a child's family and community members if a suitable placement with family has already been identified?

Participants advised that as much information as possible should be collected to ensure accountable decision making processes. The collection of information should be holistically based and include:

- family trees
- mapping existing family/community groups in area to ensure that information is noted for future use on children who come into care
- internet access to all department staff (some cannot gain vital information because of this)
- mutual responsibility and accountability for both service centres and recognised entities
- recognised entity data accountability could be monitored through performance indicators in service agreement
- There should be continual review of timeframes with service centres and recognised entities from first day of intervention. There should then be continual review of timeframes through Placement Services Unit (PSU)

However, it was also a consideration of participants that information should only be collected that is relevant, or part of a contingency plan, in the best interests of the child and that it should be on a "need to know" basis as discussed in the preceding sections.

Participants advised that heavy involvement of recognised entities was necessary on many occasions due to the amount of consultation and dialogue that can be generated through research. Many hidden factors become open and consideration has to be given to adverse situations such as family/clan rivalry, avoidance customs and customary law requirements.

Discussion Paper Question

27. Will collection of this information at the outset be useful for case managing the intervention? If so, how far reaching should such collection be?

Participants advised the earlier the collection of this information occurs the better the placement decision will be. While information will be effective on a case by case basis, it will help to establish the need for certain things such as Blue Card registration requirements to be completed by potential compatible carers. It will also strengthen the development of guidelines of practices for Family Group Meetings (FGMs).

Participants also advised that including a far greater number of family and relevant community elders or members in the FGM processes gave a far greater scope and variance of possibilities for the child, however, a common occurrence was that recognised entities and families generally aren't sufficiently prepared or given info prior to FGMs.

Attendees suggested that collection of information at the outset would be useful for case management to the extent of planning supports, placement options and contingencies and meeting cultural and identity needs.

Discussion Paper Questions

28. When making the decision to place a child, would community, language-group, or clan-group profiles be helpful?

29. If profiles would be helpful, how should they be developed and what information should they contain?

30. How should the Department work with community and government agencies to build community knowledge and capacity to give advice about children's family and community structures?

Community profiles
Community profiles were seen by participants as helpful tools providing linkages back to culture and language and it was agreed they should be established for every Aboriginal and Torres Strait Islander community, regardless of their individual classification and linked to information incorporated into cultural plans.

Participants reported that community profiles are useful in placement allocation, cultural connections and family links. They can also become a major tool in the family dynamics in regards to placements and can be placed on child's file and referred to as required.

Attendees advised consultation with the recognised entity and the child's family would help in deciding what information should be recorded. For those families who do not have language/clan group information available (usually through a result of previous generational removals) profiles could provide links to other family (e.g. family trees).

Capacity levels
Feedback suggested that joint planning between the communities, recognised entities and the Department was needed to build community knowledge and capacity to reach a satisfactory level where community will be in a position to give advice about children's families and community structures.

Discussion Paper Questions

31. How should the Department define the concept of 'compatible' carers?

32. Who should the Department consult to assess an Aboriginal and/or Torres Strait Islander carer's compatibility with the child?

33. What is the role of the recognised entity in this decision?

Participants advised that the concept of compatible carers is something that needs extensive consultation and dialogue with recognised entities, representative organisations, peak bodies, community elder groups, language group elders and kinship carers. It should include the examination of areas such as:

- whether individual child cultural needs are appropriately met
- the child's immediate and ongoing safety needs
- whether the compatible carer should be an Aboriginal or Torres Strait Islander person with cultural linkages to the child in preference to another Aboriginal or Torres Strait Islander person
- whether the compatible carer can adequately maintain links to community, language and family.

Participants further advised that recognised entity and Departmental protocol needs to be developed in regard to and that in their opinion many existing carers:

- can't link children in their care to cultural links
- do not have a demonstrated commitment to child and community
- have not earned the respect of the Aboriginal and Torres Strait Islander people in general
- do not have a demonstrated respect for Aboriginal and Torres Strait Islander cultures

- do not have a demonstrated respect for recognised entities.

The following descriptive was supplied by participants: *'The Department should define the concept of compatible carer as an Aboriginal person for an Aboriginal child and Torres Strait Islander person for a Torres Strait Islander child as approved by the child's family/recognised entity. If a child is of both Aboriginal and Torres Strait Islander descent then the compatible must practice the same child rearing that the child was raised with'.*

Participants suggested that to facilitate the appropriate matching of the child with an appropriate and compatible carer the Department should consult with the child's family supported by the recognised entity.

Attendees also advised Zonal boundaries should not be a restriction in the assessment process. A state-wide and/or national approach to the concept of compatibility should be taken.

"One issue which I am aware has arisen across zones and also across client groups is a tension between recognised entities and other involved parties seeking to transition children from stable, long term placements to placements with kin".

The One Chance at Childhood program looks specifically at the needs of 0-4 year olds. Our knowledge base centred around research and learning related to trauma and attachment. I have observed, and I have also heard anecdotal reports of recognised entities demonstrating limited awareness and understanding of the likely negative impacts of removing a child from a long term, stable placement. Also, I have some concerns that at times, some would seek to apply the Placement Principle over and above Section 5 (best interests of the child are paramount) as I would clearly see that a child's emotional needs would require attention in such a case.

Some of the areas where I have seen some discrepancies include children who have been with carers for extended periods of time, and those carers providing a high quality of care being considered a poor option compared to kin. This has been observed in cases where the kin have not been assessed as carers, have not formed or developed a relationship to the child, and who demonstrate limited awareness that the child's best interests lie in gradual transitions and continued contact with their previous carers"."

In our team and program we have recently been having discussions regarding this issue, and I am hopeful that some clarification around the Placement Principle would support and facilitate learnings and understandings between the Dept and recognised entities around these factors. My view would be that some changes to the legislation could help to support learnings within CSSC and recognised entities that acknowledge that sometimes placing a child with kin is not the best option for a child and therefore should not be pursued. – concerned front-line worker.

Discussion Paper Questions

35. How should the concept of 'near" be interpreted by the Department?

36. Based on this interpretation, is 'near' always to be implemented in a geographical sense?

37. How should the child's community be defined and identified?

Interpretation variances

The interpretation of near was seen by participants as both in a geographical sense as well as a cultural sense. They advised that they saw a need for the Department to clarify this interpretation from their position in a statement referring to the legislative terminology and definition. However, they also saw the need to clarify the concept of near from a cultural respective and recommended the Department conduct appropriate consultation in this regard.

Participants highlighted that in both Aboriginal and Torres Strait Islander cultures, the birthplace of a child (while providing in many cases totemic identification) does not necessarily denote the child's 'country' or place of 'belonging'. These primary identifiers are related to the language group the child belongs (born to[5]) and depends on other factors such as whether the child belongs to a maternal or paternal kinship system.

The child's community was defined by participants as 'in a variety of ways depending upon the current circumstances of the family', however, should also be defined by taking into account such factors as: relationships; family system; cultural connections; age of child; current locality of the child; slow transitioning of child to identified community; child's previous geographical history.

Further advice from participants was that:

- 'Near' – needs to be physical location; and the capacity of the carer to engage with the family and community of the child (acceptance by the community and family of the carer)
- Near - for a child in Brisbane with traditional home lands and family in South East Queensland will mean something different than a child who has ended up in Brisbane, but family are clearly from Palm Island or Far North Qld, but the parents happened to live in South East Queensland when the children were removed
- for children with connections to family groups hundreds of kilometres from their current placement, 'near', needs to be geographically close, unless the child has a pre-existing relationship with the proposed carer, or the carer is identified by the family as the most suitable option
- community needs to be defined by traditional lands, but also by the location of the closest family and supports
- 'Near' - should be interpreted in terms of the ultimate goal of departmental intervention ie. reunification of the child with his or her family
- the child's community is the community in which the child has been living immediately prior to the departmental intervention. The purpose of intervention must be consistent with the legislation in terms of maximizing the child's prospects of reunification with the child's primary caregiver parent from whose care the child has been taken
- The department should be ensuring that upon the removal of the child from his or her home and family, the child is able to continue to have as much quality contact with the child's primary caregiver as possible. In general terms, 'near' should be implemented in a geographical sense, i.e. placement should be in an area closest to the child's primary care giver parent from whom the child has been removed for the reasons referred to in the preceding section
- The child should have the opportunity of remaining in a community and having contact with people with whom the child is familiar, bearing in mind the goal of reunification of the child with his or her family
- The concept of near should be interpreted by the Department in a geographical sense whether placement is near to the child's family to enable regular contact to occur
- Concern needs to be raised when a carer requests to move further away geographically from the family making it harder for contact to happen

[5] The term 'belongs to' is descriptive of the place where an Aboriginal or Torres Strait Islander person considers their 'country' or place of spiritual and Customary Law/ Ailan Kastom origin. It is defined by kinship rulings accepted by their particular Language/ Island group through either a maternal or paternal kinship system.

- The child's community should be defined and identified by its family origins and where the child grew up. The community should be identified and defined by the child and the child's family.

Discussion Paper Question

38. How should the views of the recognised entity be documented and recorded?

Standardised processes
Participants were of the opinion that all documentation used to report recognised entity activity and advice to the Department should be reviewed as part of a state-wide standard. Variations exist throughout the state and are confusing. Standardised consultation pro forma for recognised entities from initial intake process of record keeping to completion needs to be revised by the Department, re-developed and introduced state-wide.

Participants were also of the opinion information provided by recognised entities to the Department should be expandable and not restricted to non-informative answers such as 'yes / no' and 'Name' and should not just be a tick box in ICMS. It was felt this develops negative attitude and provides an inadequate reflection of consultation processes. Increased communications between recognised entities and service centres allow for better relationships to develop.

Other participant considerations were that:

- case plan perspectives and contribution in discussion/ placement decisions of the recognised entity should be evidenced by being recorded within the case plan
- on ICMS in a case-note about "placement" would be easiest and most likely to be recorded. Or in a FGM if that is where the views are expressed
- the views of the recognised entity should be well documented to avoid ambiguity or later confusion
- it is recommended that the recognised entity's views be recorded in writing as well as recorded electronically, for example by tape
- a well documented and objective recording of the recognised entity's views will contribute to a better understanding by departmental staff of the recommendations of the recognised entity
- a precedent form or consultation form should be developed between the recognised entity and each service centre to ensure that information is being recorded accurately and is regularly updated to include review dates no greater than three months
- additional information to be included, verbal conversations e.g. phone calls and case discussions. Documentation and recordings should be explained in writing in recognised entity operational manual/working agreement with the Department.

"Legal Aid Queensland sees a need for the provision of appropriate services which provide hands on practical services so children can stay in their community. As well, time and resources need to be put in by the Department to engage successfully with Recognised Entities "RE" so that their role in child protection proceedings is valued and so that the viability of their services is ensured" – extract from Legal Aid Queensland submission.

Discussion Paper Question

39. What types of information should be collected about the child's relationships with parents, siblings and people of significance?

Participants were of the opinion that:

- only necessary information should be recorded
- the information gathered should as far as possible come from the child's immediate family and in particular the child's parent/s or the child's primary caregiver prior to the departmental intervention
- gathering of such information should not be an alternative to primary or joint decision making by the recognised entity since departmental staff may not understand the nature of the relationships in a cultural context.

Participants suggested that the types of information collected about the child relationships should be to:

- Identify immediate family and significant relationships
- identify whether the child is a product of Aboriginal or Torres Strait Islander adoption, and to provide an explanation of relationship between the child and significant members of child's family e.g. Torres Strait Islander adoption - biological mother could be regarded as a sister to a child
- identify the levels / strengths of relationships between the child and his/her relatives
- identifying other relevant family members and explaining the role of person e.g. Maternal Uncle / Mother / Father /Avoidance relationships / ceremonial..

Discussion Paper Questions

40. How useful is the Cultural Support Plan as a vehicle for collecting and storing relationships information for consideration for a placement option?

41. What standards and processes should be adopted on a state-wide basis for development of Cultural Support Plans?

42. What should the roles of recognised entities and departmental staff be?

43. What additional tools or resources would be helpful?

'When I worked at …… CSSC, to put it bluntly their CSP did not exist. It was a broad, single sentence statement. That being "(name of recognised entity) will provide ongoing support to the child". I believed this was inefficient and ultimately, kids deserved more.

…… my team leader never allowed me any time within work hours to complete the necessary research, that being reading practice papers, the service delivery agreement between the department and (name of re) case plans, and other government literature regarding Aboriginal and Torres Strait Islander children in out of home care.

This meant that I spent many lunch hours and nights at home doing research and any trips that I made out to …… for meetings to consult with them had to be facilitated during my case note time. This meant that I had to work extra hard to remain on top of the task of documenting my case notes on the Integrated Client Management System. ……. my schedule was hectic with differing deadlines that needed to be met on top of my research.
I'm not saying it's the best one in the world, however I do believe that it is a significant improvement on the one that …… CSSC previously used. It is basic, focused on providing an outline for specific responsibilities for all stakeholders involved in the provision of cultural support to a child who belongs to an inner city Aboriginal or Torres Strait Islander community. It is also based on the 'many hands make light work' attitude - **Child Safety Support Officer.**

Participants advise the case by case differentiation depicts that no two cases are the same and specialised information needs to be recorded for the benefit of the child and to assist in the appropriate placement of each Aboriginal and Torres Strait Islander child. It is therefore a useful tool and state wide standardised definition is required.

Consideration by attendees was given to the need for:

- the format of the cultural plan to be widely circulated for input by various representatives of the Department (e.g. CSSOs) the Aboriginal and Torres Strait Islander community, recognised entities, peak bodies and other relevant areas such as the Commission for Children and Young People and Child Guardian
- care to be taken that the cultural plan's main focus remains on providing a unique plan for each child to be kept in close proximity and involved to the fullest extent available with their immediate family and language group.

Participants warned the danger of these plans was that they have been developed previously as a 'remembrance' tool to be given to children when they leave the care of the Department rather than a tool to keep them in close contact and involved in relevant cultural activity on a regular basis. An example given was a child from Cape York being allocated to non-indigenous carers in South East Queensland. While no provision was made to accommodate the necessary contact in the cape, a complete photograph package was provided to the child some years later at the end of the placement as a record of his involvement with the Department.

Development of Cultural Support Plan
Participants further advised:

- identified CSSO positions should be heavily involved in the final development of the cultural support plan, in partnership with recognised entities and other relevant Aboriginal and Torres Strait Islander community representatives
- a stronger and closer working relationship needs to be developed between recognised entities and Identified CSSO positions by the appointment of a dedicated position in the recognised entities to compile cultural support plans
- this position is considered to be best placed within the community
- currently, a lot of confusion exists around the Cultural Support Plan
- many centres report they are not being completed because the CSP component of the Case Plan itself needs clarification
- Child Safety Officers and Family Group Meeting Coordinators do not believe that they have the cultural authority and knowledge to have substantial input and impact into the CSP
- they also feel uncomfortable (as non-Indigenous persons) in asking questions around cultural activities and sustainability, etc
- although the recognised entity is required to have an input into the Case Plan/CSP, there are questions around what actually 'drives' the development of a CSP
- questions also arise as to who is appropriate to facilitate questions around the cultural elements of the CSP? (e.g., is it the recognised entity, CSO or FGMC's)?
- in the Department's fact sheet relating to *'Changes to legislation regarding Aboriginal and Torres Strait Islander children'* the role of the recognised entity in terms of the child's cultural support plan is being interpreted differently against what is actually happening in practice.

Recognised entity expertise
Attendees indicated it would be more appropriate (and best practice) for the recognised entity to develop and implement the child's cultural support plan, rather than the CSO or FGM Coordinator. It was their opinion that Aboriginal and Torres Strait Islander recognised entities have more expertise with specialist skills in cultural elements than the non-Indigenous front-line staff. Many recognised entities are not funded or resourced to take on the CSP role, but are receptive to the idea if negotiations can be managed, and if the Department could include this as a directive through policy or legislation.

Participants highlighted that other than providing input (cultural advice) into the case plan the recognised entity:

- does not have a role in the formation or implementation of the CSP
- recognised entities can take a higher role in developing CSPs
- a standardised format is required for cultural support plans that are user and family friendly
- not necessarily the case plan format.

Comment from a CSO IN Far Northern Zone – *"I cannot comment on a Cultural Support Plan because I have not seen one yet".*

Child Safety Practice Manual
Participants pointed out that the Child Safety Practice Manual states that the case plan for a child must include actions and arrangements that maintain and support the child's cultural identity consistent with the statement of standards, the charter of rights and the principles of the *Child Protection Act 1999*. This applies to an Aboriginal or Torres Strait Islander child or a child from another cultural community.

Participants advised that the CSO must ensure the child's cultural identity and relationships are maintained and provide opportunity for contact, as often as is appropriate in the circumstances, between the child and appropriate members of the child's community or language group (*Child Protection Act 1999*, section 86). This is particularly important when the child is placed with a non-Aboriginal or Torres Strait Islander person or with another Aboriginal or Torres Strait Islander not from their clan/family or language group (*Child Protection Act 1999*, section 83).

Maintaining Identity
Feedback suggested that strategies for maintaining and supporting the child's cultural identity and relationships should be discussed with the child's family at the family group meeting and incorporated into the child's case plan. The case plan for an Aboriginal and Torres Strait Islander child must include:

- the name of the clan/language group/ethnic or cultural group/Island or community group the child belongs;
- arrangements for contact between the child and the child's parents, guardians or carers;
- arrangements for contact between the child and other family members and significant persons;
- activities and arrangements for maintaining and supporting the child's cultural identity;
- the support required by the carers to maintain and support these arrangements and activities; and
- the names of family members or significant persons to maintain and support the child's cultural identity and their contact details.

Determining cultural supports
Consideration of participants was that the Department is not culturally able to determine appropriate cultural supports for the child and should rely on the recognised entity for primary decision making about placement or in the alternative it should rely on the advice and recommendations of the recognised entity and such other support persons or agencies as may be recommended by the recognised entity.

Participants highlighted that Departmental staff with the best of intentions, do not necessarily have the same knowledge of community, culture and families as those who live in the communities, and they should not presume such knowledge by reading a Cultural Support Plan or other information about a child's family. Respect should be had for the more complete and detailed information of the recognised entity.

Participants suggested that as a tool for determining child placement options, the Cultural Support Plan alone, without the involvement of the recognised entity and the community, is considered inadequate for the reasons outlined in previous sections herein. The department cannot, by reference to its Cultural Support Plan alone, presume to be able to determine which placements are in the best interests of Aboriginal and Torres Strait Islander children.

Feedback suggested that a pro forma of a cultural support plan should be collaboratively developed between the Department recognised entities and Foster and Kinship Care services.

It was the opinion of participants that every Aboriginal and Torres Strait Islander child in care should have a Cultural Support Plan that is part of the case-plan and must be reviewed regularly but no greater than three months. Applications for court orders for all Aboriginal and Torres Strait Islander children must include a case-plan -- that includes a Cultural Support Plan.

Facilitation of Family Group Meetings
Participants suggested that Child Placement Principal Workers of recognised entity services should facilitate family meetings that develop Cultural Support Plans and would present with the family the cultural support plan that has been developed at the family group meeting.

Discussion Paper Questions

44. How should the Department assess a non-Indigenous carer's commitment?

45. What criteria would be appropriate for assessing commitment?

46. How should the assessment be documented and recorded?

47. How can the Department support non-Indigenous carers to fulfil their commitment?

Participants advised that:

- the definition of the word 'compatible' should be definitively described for non-indigenous carers
- non-indigenous carers should be required to complete basic and community specific cultural competency training

- public relations regarding 'standards of care' need to be improved both for Aboriginal and Torres Strait Islander carers as well as non-indigenous carers
- revision of the carer handbook needs to take place immediately with a version specific to Aboriginal and Torres Strait Islander carers. This version should accommodate cultural specifics of the Aboriginal and/or Torres Strait Islander people to which the child belongs.

Suggestions from participants was that some criteria for assessment of a non-Indigenous carer's commitment could be:

- their willingness to learn about child's culture / community, and
- their capacity to develop relationships with community people and family
- a panel of community representatives should assess each carer.

The feedback indicated that acknowledgement must be given and access provided to Aboriginal and Torres Strait Islander child rearing in close proximity to the family of the child, and regular family contact must be ensured. Aboriginal and Torres Strait Islander placement agencies need to develop the criteria for assessing a non-indigenous carer's commitment.

Participants were of the opinion that the Department should encourage carers to volunteer within the Aboriginal and/or Torres Strait Islander community in which they live to develop closer relationships with organisations and networks that will assist the carer in carrying out the placement in an efficient and satisfactory way. This of course would require considerable consultation with local organisations to ensure placement availability and capacity to carry out this form of involvement.

Further consideration by participants was that:

- the process of assessment should be undertaken primarily by or jointly with staff of the recognised entity in order to assess a non-indigenous carer's commitment
- it is important to establish that a carer's willingness to have placements of Aboriginal and Torres Strait Islander children be a genuine commitment which is reflected in the Carer Agreement and well established in the assessment interview process
- the Department ensure all temporary non-indigenous carers fully understand the temporary nature of their role in caring for Aboriginal or Torres Strait Islander children
- the Department should be pro-active in liaising with the recognised entity to approve more Aboriginal and Torres Strait Islander and kinship carers
- where non-indigenous carers are used, the recognised entity department should liaise with the recognised entity to develop questions for the assessment process
- the recognised entity should be closely involved in the assessment of non-indigenous carers
- the initial interview should include questions which demonstrate the carer's knowledge of Aboriginal and Torres Strait Islander local communities; and
- the extent of their familiarity with people living in those communities
- the questions themselves should be culturally appropriate.

Statement of appropriate Standards

Participants were of the opinion that If the person has indicated a willingness to take Aboriginal and Torres Strait Islander children, more probing questions should be asked. For example, the persons conducting the interviews should ask such as:

- the carer's reasons for saying that they are happy to take indigenous children

- in which ways is the carer willing to facilitate maintaining the child's family and community relationships.

Participants also advised that questions should be relevant to a 'Statement of Appropriate Standards' for the care of Aboriginal and Torres Strait Islander children. This statement of standards should be developed with reference to the recognised entity and to community people recommended by the recognised entity.

Feedback suggested that an assessment of commitment should always be undertaken with a worker from the recognised entity. One of the workers should be responsible for recording all answers to the questions by the carers. This will assist the assessment process so that there is no confusion as to the responses given by carers to the interview questions.

Support Levels

Participants were of the opinion that the department should regularly liaise with the recognised entity and arrange for community workers to assess the level of support needed by carers; and non-indigenous placements should only be used as interim or emergency placements to a maximum of one month along with a collaborative commitment between aboriginal and Torres Strait Islander placement agencies and recognised entities to find long-term placements with family.

It was suggested by participants that the Department can support non-Indigenous carers to fulfil their commitment by providing appropriate resources in addition to current funding to Aboriginal and Torres Strait Islander placement agencies, to support non-Indigenous carers who have Aboriginal and Torres Strait Islander children in their care only in short-term and interim arrangements.

Participants recommended Aboriginal and Torres Strait Islander placement agencies be resourced to develop a training package specifically for non-Indigenous carers who have Aboriginal and Torres Strait Islander children in their care. This should include a 'Caring for Aboriginal and Torres Strait Islander Children' module and should be an expansion to the Aboriginal and Torres Strait Islander component within the carer handbook. It should be particularly focussed in a participatory manner with members of the community to which the child 'belongs'.